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CONSENT AGENDA**

Committee and Board Meetings:
February 10-11, 2016
Galveston, Texas

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TECHNOLOGY TRANSFER AND RESEARCH COMMITTEE

No items for Consent Agenda

MEETING OF THE BOARD

1. Minutes - U. T. System Board of Regents: Approval of Minutes of the regular meeting held on November 4-5, 2015; and the special called meetings held on October 30, 2015; December 18, 2015; January 21, 2016; and January 25, 2016
2. Employment Agreement - U. T. System: Appointment of Amy Shaw Thomas, J.D., as Vice Chancellor for Academic and Health Affairs at The University of Texas System

The letter agreement summarized below has been approved by the Chancellor and is recommended for approval by the U. T. System Board of Regents.

| | |
|--------------|--|
| Item: | Vice Chancellor for Academic and Health Affairs |
| Funds: | \$400,000 annually |
| Period: | Beginning December 1, 2015 |
| Description: | Agreement for employment of Amy Shaw Thomas, J.D., as Vice Chancellor for Academic and Health Affairs. The Vice Chancellor for Academic and Health Affairs has a shared reporting relationship to the Executive Vice Chancellor for Health Affairs and the Executive Vice Chancellor for Academic Affairs and will hold office without fixed term, subject to the pleasure of the Chancellor. The agreement is set forth on the following pages. |



THE UNIVERSITY of TEXAS SYSTEM
FOURTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

Office of the Chancellor
601 Colorado Street
Austin, Texas 78701-2904
Phone: 512-499-4201
WWW.UTSYSTEM.EDU

Personal and Confidential

December 1, 2015

Ms. Amy Shaw Thomas
[REDACTED]
[REDACTED]

Dear Amy:

I am pleased to offer you the position of Vice Chancellor for Academic and Health Affairs at The University of Texas System, effective December 1, 2015 and contingent upon a clear background check. Your annual salary rate will be \$400,000. In your position as the Vice Chancellor, you will have a shared reporting relationship to the Executive Vice Chancellor for Health Affairs and the Executive Vice Chancellor for Academic Affairs. You shall hold office without fixed term, subject to the pleasure of the Chancellor.

In addition to the annual salary, all other State-paid fringe benefits required to be provided to higher education employees by State law, and for which you are eligible, are included. Among these benefits are State-paid OASI, longevity pay, workers' compensation, liability insurance coverage, retirement plan, insurance premium sharing, and leave entitlement.

Additional elements of your compensation package are:

- (a) You are eligible to participate in the Board of Regents' "Incentive Plan for The University of Texas System Presidents and System Administration Executive Officers" subject to the requirements and terms specified therein. The compensation earned from this incentive plan will vary depending on you attainment of certain specific performance goals.
- (b) The cost of club membership(s) approved by the Chancellor will be paid, including initial fees for joining the club and all properly documented business-related expenses. All personal expenses, including the portion of dues related to personal use, is calculated based on the personal expenses for that month as a percent of the total expenses. That percentage is applied to the dues owed to determine the personal amount.

Amy, I look forward to your leadership in bridging the Academic and Health Affairs' efforts as we progress in our expanded collaborations across the state of Texas and the nation.

Ms. Amy Shaw Thomas
December 1, 2015
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To indicate your acceptance of these terms, please sign and date this letter and return a copy to my office. Our office will coordinate with you on a public announcement upon receiving your signed acceptance. I look forward to working together with you to facilitate the success of the Framework, emphasizing transparency and accountability in all that we and the campuses achieve.

Sincerely,



William H. McRaven
Chancellor

WHM/jbp

cc: Raymond S. Greenberg, M.D., Ph.D.
Dr. Steven Leslie
Mr. Randy Wallace
Office of Employee Services



Signature of Acceptance



Date

AUDIT, COMPLIANCE, AND MANAGEMENT REVIEW COMMITTEE

No items for Consent Agenda

FINANCE AND PLANNING COMMITTEE

3. Contract (funds going out) - U. T. System: Technology Recruiting Solutions, Inc. to provide recruitment services

Agency: Technology Recruiting Solutions, Inc.

Funds: Anticipated total cost of services expected to exceed \$1,000,000

Source of Funds: Available University Funds

Period: July 20, 2015 through July 19, 2018

Description: To provide recruitment of executive level, information technology professionals, engineers, scientists, legal professionals, and data analysts identified and requested by U. T. System Administration and U. T. System institutions on an as needed basis. This contract was competitively bid.

4. Contract (funds going out) - U. T. System: Piper Morgan Personnel to provide recruitment services

Agency: Piper Morgan Personnel

Funds: Anticipated total cost of services expected to exceed \$1,000,000

Source of Funds: Available University Funds

Period: July 20, 2015 through July 19, 2018

Description: To provide recruitment of executive level, information technology professionals, engineers, scientists, legal professionals, and data analysts identified and requested by U. T. System Administration and U. T. System institutions on an as needed basis. This contract was competitively bid.

5. Contract (funds going out) - U. T. System: ARC Staffing to provide recruitment services

Agency: ARC Staffing

Funds: Anticipated total cost of services expected to exceed \$1,000,000

Source of Funds: Available University Funds

Period: July 20, 2015 through July 19, 2018

Description: To provide recruitment of executive level, information technology professionals, engineers, scientists, legal professionals, and data analysts identified and requested by U. T. System Administration and U. T. System institutions on an as needed basis. This contract was competitively bid.

6. Contract (funds going out) - U. T. System: Pedigo Staffing Services to provide recruitment services

Agency: Pedigo Staffing Services

Funds: Anticipated total cost of services expected to exceed \$1,000,000

Source of Funds: Available University Funds

Period: July 20, 2015 through July 19, 2018

Description: To provide recruitment of executive level, information technology professionals, engineers, scientists, legal professionals, and data analysts identified and requested by U. T. System Administration and U. T. System institutions on an as needed basis. This contract was competitively bid.

7. Request for Budget Change - U. T. System: Transfer \$5,000,000 from Institute for Transformational Learning reserves cost center to Institute for Transformational Learning operating cost center for operational expenses (RBC No. 7331)

8. Other Matters - U. T. System: Approval of Newly Commissioned Peace Officers

In accordance with Section 51.203 of the *Texas Education Code*, the Board is asked to approve the Commissioning of the following Peace Officers. The Officers have completed training at the U. T. System Police Training Academy and passed the State of Texas Police Officer Licensing Examination.

Effective date: November 20, 2015

| <u>Name</u> | <u>Institution</u> |
|-----------------------|----------------------------------|
| Marisa R. Bogart | U. T. Austin |
| Gregory D. DeStasi | U. T. Austin |
| Zachary M. Lewis-Hill | U. T. Austin |
| Michael S. Olfers | U. T. Austin |
| Edgar J. Rodriguez | U. T. Austin |
| Ryan J. Rodriguez | U. T. Austin |
| John J. Theis | U. T. Austin |
| Mark Tiapkov | U. T. Austin |
| Kurt E. Weichold | U. T. Austin |
| Alexandra J. Sexton | U. T. Permian Basin |
| Matthew A. Bonner | U. T. Medical Branch - Galveston |
| Lester I. Moore | U. T. Medical Branch - Galveston |

9. Real Estate Report - U. T. System: Summary Report of Separately Invested Assets Managed by U. T. System

**THE UNIVERSITY OF TEXAS SYSTEM
SEPARATELY INVESTED ASSETS
Managed by U. T. System
Summary Report at November 30, 2015**

| | FUND TYPE | | | | | | | |
|----------------------------|-------------------------------|---------------|--------------------------------|----------------|----------------------------------|--------------|---------------|----------------|
| | Current Purpose Restricted | | Endowment and Similar Funds | | Annuity and Life Income Funds | | TOTAL | |
| | Book | Market | Book | Market | Book | Market | Book | Market |
| Land and Buildings: | | | | | | | | |
| Ending Value 08/31/2015 | \$ 1,199,152 | \$ 18,048,924 | \$ 97,681,261 | \$ 275,504,874 | \$ 789,428 | \$ 1,649,089 | \$ 99,669,841 | \$ 295,202,887 |
| Increase or Decrease | - | - | (200,997) | (5,239,473) | - | - | (200,997) | (5,239,473) |
| Ending Value 11/30/2015 | \$ 1,199,152 | \$ 18,048,924 | \$ 97,480,264 | \$ 270,265,401 | \$ 789,428 | \$ 1,649,089 | \$ 99,468,844 | \$ 289,963,414 |
| Other Real Estate: | | | | | | | | |
| Ending Value 08/31/2015 | \$ 1,005 | \$ 1,005 | \$ 8 | \$ 8 | \$ - | \$ - | \$ 1,013 | \$ 1,013 |
| Increase or Decrease | - | - | - | - | - | - | - | - |
| Ending Value 11/30/2015 | \$ 1,005 | \$ 1,005 | \$ 8 | \$ 8 | \$ - | \$ - | \$ 1,013 | \$ 1,013 |

Report prepared in accordance with Sec. 51.0032 of the *Texas Education Code*.
Details of individual assets by account furnished on request.

Note: Surface estates are managed by the U. T. System Real Estate Office. Mineral estates are managed by U. T. System University Lands. The royalty interests received from the Estate of John A. Jackson for the John A. and Katherine G. Jackson Endowed Fund in Geosciences are managed by the U. T. Austin Geology Foundation, with the assistance of the Bureau of Economic Geology.

10. Request for Budget Change - U. T. Arlington: Transfer \$4,019,388 from Texas Department of Transportation (TxDOT) and Texas Commission on Environmental Quality (TCEQ) contract awards account to TxDOT and TCEQ maintenance and operations account as an increase to the Department of Enterprise Development's operating budget for Fiscal Year 2016 (RBC No. 7160) -- amendment to the 2015-2016 budget
11. Request for Budget Change - U. T. Austin: Transfer \$2,000,000 from VPBA-UBC Commitments - Auxiliary Funds, Recreational Sports Whitaker Fields account to Recreational Sports Reserve for Repair and Replacement account for renovation of Whitaker Fields (RBC No. 7410) -- amendment to the 2014-2015 budget

12. Request for Budget Change - U. T. Austin: Transfer \$12,310,120 from Housing and Food Services-Division Office Expenses, Facilities, and University Apartments accounts to Housing and Food Services-Housing and Food General Repair/Replace Reserve account to create a reserve from Housing and Food operating income for repair and replacement (RBC No. 7411) -- amendment to the 2014-2015 budget

The following Request for Budget Change has been administratively approved by the Executive Vice Chancellor for Academic Affairs and is recommended for approval by the U. T. System Board of Regents:

| Description | \$ Amount | RBC # |
|---|------------|-------|
| Housing and Food Services | | |
| Amount of Transfer: | 12,310,120 | 7411 |
| From: Housing and Food Services, Division Office Expenses | 11,609,702 | |
| Housing and Food Services, Facilities | 67,288 | |
| Housing and Food Services, University Apartments | 633,130 | |
| To: Housing and Food Services, Housing and Food General Repair/ Replace Reserve | 12,310,120 | |

13. Request for Budget Change - U. T. Austin: Transfer \$2,962,031 from Utility-Utility Plant, Operating Income account to Utility-Utility Master Plan, All Expenses and Utility-Overhaul Parts for Turbines, All Expenses accounts for creating a utility master plan for Main Campus (RBC No. 7420) -- amendment to the 2014-2015 budget

The following Request for Budget Change has been administratively approved by the Executive Vice Chancellor for Academic Affairs and is recommended for approval by the U. T. System Board of Regents:

| Description | \$ Amount | RBC # |
|--|-----------|-------|
| Utility-Utility Plant | | |
| Amount of Transfer: | 2,962,031 | 7420 |
| From: Utility-Utility Plant | 2,962,031 | |
| To: Utility-Utility Master Plan, All Expenses | 1,043,000 | |
| Utility-Overhaul Parts for Turbines, All Expenses | 1,919,031 | |

- 14. Request for Budget Change - U. T. Austin: Transfer \$6,000,000 from VPBA-UBC Commitments - Designated Funds, R&R account to PMCS-Repair and Renovation Control, Allocated for Budget for Fiscal Year 2015-2016 budget allocations account for repair and renovation (RBC No. 7363) -- amendment to the 2015-2016 budget

- 15. Request for Budget Change - U. T. San Antonio: Transfer \$1,000,000 from Student Affairs Reserve, Student Services Fee, and University Center Reserve accounts to UCII Window System Replacement account to provide funding for new capital project, University Center II Window System Replacement project (RBC No. 7482) -- amendment to the 2015-2016 budget

The following Request for Budget Change has been administratively approved by the Executive Vice Chancellor for Academic Affairs and is recommended for approval by the U. T. System Board of Regents:

| Description | \$ Amount | RBC # |
|--|-------------|-------|
| University Center II Window System Replacement capital project | | |
| Amount of Transfer: | | 7482 |
| From: Student Affairs Reserves | \$240,000 | |
| Student Services Fee | \$260,000 | |
| University Center Reserve | \$500,000 | |
| To: UCII Window System Replacement | \$1,000,000 | |

- 16. Request for Budget Change - U. T. San Antonio: Transfer \$5,000,000 from Campus Reserves account to Science and Engineering Building capital project account to provide funding for capital project, Science and Engineering Building (RBC No. 7170) -- amendment to the 2015-2016 budget

- 17. Request for Budget Change - U. T. San Antonio: Transfer \$1,750,000 from University Center Fee account to UCII Common Lounges Update account to provide funding for new capital project (RBC No. 7266) -- amendment to the 2015-2016 budget

- 18. Request for Budget Change - U. T. San Antonio: Transfer \$3,341,184 from Campus Reserves account to OIT Core Network Upgrade account to provide funding for capital project, Office of Information Technology Core Network Upgrade (RBC No. 7354) -- amendment to the 2015-2016 budget

19. Request for Budget Change - U. T. San Antonio: Transfer \$1,495,622 from Food Service Retail Operations account to JPL Remodel Food Court capital project account to provide funding for capital project, John Peace Library Remodel Food Court (RBC No. 7422) -- amendment to the 2015-2016 budget

20. Request for Budget Change - U. T. Tyler: Transfer \$5,400,000 from Designated Tuition account to Campus Enhancement Projects account as contingency for possible future purchase of two tracts of land (RBC No. 7102) -- amendment to the 2015-2016 budget

21. Contract (funds going out) - U. T. M. D. Anderson Cancer Center: Dixon Hughes Goodman LLP to provide technical and project management support services for various projects to enhance the functionality and end user experience with the PeopleSoft and Hyperion installations

Agency: Dixon Hughes Goodman LLP

Funds: The total cost of services under this agreement, including all renewals, will not exceed \$7,000,000.

Source of Funds: Hospital Patient Income

Period: The term of this agreement will be for a period of 36 months, commencing on February 8, 2016, and continuing through February 7, 2019. The agreement includes the option for two 12-month renewals.

Description: Dixon Hughes Goodman LLP has expertise with Oracle PeopleSoft and Hyperion Enterprise Performance Management and will provide technical and project management support services for initiatives U. T. M. D. Anderson Cancer Center is launching to enhance the functionality and end user experience with these systems. This contract was competitively bid.

ACADEMIC AFFAIRS COMMITTEE

22. Other Matters - U. T. System Academic Institutions: Approval of Sexual Harassment and Sexual Misconduct Policies

The following sexual harassment and sexual misconduct policies for the U. T. System academic institutions have been reviewed by the Office of Academic Affairs and the Office of General Counsel and found to be in compliance with applicable laws and regulations. The policies, on the following pages, are being submitted for Board approval as required by federal law as referenced in Regents' *Rules and Regulations*, Rule 30105. Approval by the Board is recommended by the Chancellor, the Deputy Chancellor, the Executive Vice Chancellor for Academic Affairs, and the Vice Chancellor and General Counsel.

Academic Institutions

Sexual Harassment and Sexual Misconduct Policies

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U. T. Austin, [Page 464](#)

U. T. Dallas, [Page 485](#)

U. T. El Paso, [Page 510](#)

U. T. Permian Basin, [Page 529](#)

U. T. Rio Grande Valley, [Page 549](#)

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U. T. Tyler, [Page 590](#)

Policy 5-513

Sexual Harassment and Sexual Misconduct Policy

Contents

- I.** Title
 - II.** Policy
 - III.** Definitions
 - IV.** Relevant Federal and State Statutes
 - V.** Relevant UT System and Institutional Policies, Procedures and Forms
 - VI.** Who Should Know
 - VII.** UT Arlington Office(s) Responsible for Policy
 - VIII.** Dates Approved or Amended
 - IX.** Contact Information
-

I. Title

Sexual Harassment/Sexual Misconduct Policy

II. Policy

Sec. 1 General Policy Statement.

1.1 The University of Texas at Arlington (“University”) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct is a form of sex discrimination and will not be tolerated. As stated in the definition, sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.

1.2 The University will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The University encourages any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified in Section 3.2.

Sec. 2 Applicability. This Policy applies to all University administrators, faculty, staff, students, and third parties within the University’s control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant’s education or employment with the University. It also applies regardless of the

gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

Sec. 3 Filing a Complaint and Reporting Violations.

3.1 All Members of the University Community, Third Party and Anonymous Complaints. All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.

- a. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit the University's ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.
- b. Confidentiality. The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section 3.5.
- c. Timeliness of Complaint. Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.

3.2 Responsible Employees. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5. Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the following website <http://www.uta.edu/titleix/>.

3.3 Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas at Arlington Police Department at 817-272-3381 (non-emergency) or 817-272-3003 or 911 (emergency) or to the City of Arlington Police Department 817- 274-

4444 (non-emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Deputy Coordinators can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department.

If a complaint of sexual misconduct is reported to the University Police Department, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police Department shall also notify the Title IX Coordinator of the complaint, and provide the Title IX Coordinator or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

- 3.4 Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
Telephone: (214) 661-9600
Facsimile: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission and the Texas Workforce Commission, Civil Rights Division to complain of sex discrimination or sexual harassment at:

Texas Workforce Commission, Civil Rights Division
101 East 15th St., Room 144T
Austin, TX 78701
Phone: 512-463-2642 or 888-452-4778
800-735-2989 (TDD)
http://www.twc.state.tx.us/crd/file_emp.html

U.S. Equal Employment Opportunity Commission
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202
Phone: (800) 669-4000
FAX: (214) 253-2720

- 3.5 Confidential Support and Resources. Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in Counseling and Psychological

Services, a health care provider in Health Services, the clergy person of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergy person of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator. The University and community resources that provide such services can be located at <https://www.uta.edu/rvsp/resources/important-numbers.php>.

3.6 Immunity. In an effort to encourage reporting of sexual misconduct, the University may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this Policy.

3.7 Title IX Coordinator and Deputy Coordinators.

Title IX Coordinator:

Jean Hood, Vice President for Human Resources
1225 W. Mitchell Street, Ste. 212
Arlington, Texas 76019-0132
Telephone: 817-272-7091
jmhood@uta.edu

Title IX Deputy Coordinator for Staff, Visitors, and Contractors:

Eddie Freeman
Executive Director
Phone: 817-272-2106
Email: efreeman@uta.edu
Office Location: 701 S. Davis Dr., In the Office & Classroom Bldg. Suite 104,
Arlington, Texas 76019

Title IX Deputy Coordinator for Faculty:

Maria Martinez-Cosio, Ph.D.
Assistant Vice Provost for Faculty Affairs
Phone: 817-272-3302
Email: mcosio@uta.edu
Office Location: Central Library, 702 Planetarium, Room 415, Arlington, Texas
76019

Title IX Deputy Coordinator for Students:

Heather Snow, Assistant Vice President for Student Affairs
300 W. First Street, University Center, Suite B120
Arlington, TX 76019-0132
Telephone: 817-272-1009

hsnow@uta.edu

Sec. 4. Parties' Rights Regarding Confidentiality. The University has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

In the course of the investigation, the University may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. The University will take all reasonable steps to ensure there is no retaliation against a complainant. The University will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the University will also protect the privacy of all parties to a report of sexual misconduct.

Sec. 5. Victim Resources.

A. Medical Assistance. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of [insert hospital with SAFE capabilities] or the nearest hospital that provides SAFE services.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

Police Assistance. The University encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that police jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on the university campus, a

report may be filed with the UTA Police Department (UTAPD) by calling 817-272-3381 or in person at UTAPD headquarters at 700 South Davis Street. If the incident occurred in the city of Arlington, but off campus, a report may be filed with the Arlington Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report. UTAPD can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a university disciplinary hearing. If the police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by a police department counselor. A report may be filed with the University police even if the assailant was not a University student or employee.

- B. **Counseling and Other Services.** A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

Medical care can be provided at University Health Services (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by the University Counseling and Psychological Services (students), Employee Assistance (employees), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

Students desiring counseling should contact:

Counseling and Psychological Services

303 Ransom Hall • Arlington, TX 76019 • Phone: 817-272-3671 • Fax: 817-272-5523

Counseling and Psychological Services - Psychiatry

605 W. 1st Street • Arlington, TX 76019 • Phone: 817-272-2771 • Fax: 817-272-3829

Faculty and staff should contact:

Human Resources

J.D. Wetsel Building, Room 212: 1225 W. Mitchell St.
Box 19176, Arlington, TX 76019
Phone: 817-272-5554 - Fax: 817-272-7288

5.2 Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, the University will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from

harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the University may be able to provide additional accommodations for a complainant while an investigation is pending.

Sec. 6 Intake Procedures and Protocol.

6.1 Key Officials in an Investigation.

A. Title IX Coordinator. The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator has designated three Deputy Title IX Coordinators.

Any member of the University community may contact the Title IX Coordinator with questions.

B. Investigators. The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Deputy Coordinators shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary.

6.2 Assessment of Complaint.

The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

- A. With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and
- B. When both parties are categorically similar (i.e. employee/employee or student/student).

6.3 Notification of University Offices Offering Assistance. Upon receipt of a complaint, the university Title IX Coordinator or Deputy Coordinator shall notify the Relationship Violence Prevention and Student Intervention office

("RVSP") and/or Employee Relations, as applicable, to contact the victim regarding available resources and victim assistance. A list of victim resources is available from the RVSP and Employee Relations offices, and also may be located at <http://www.uta.edu/rvsp/resources/important-numbers.php>.

6.4 Informal Resolution of Certain Sexual Harassment Complaints.

A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he or she has been subject to sexual misconduct may immediately file a formal complaint as described in Section 3 of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Coordinator.

- A. Informal Assistance. In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Coordinator or designee, then the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, directing a University official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, the University may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.
- B. Timeframe. Informal resolutions should be completed no later than 10 business days after the Title IX Coordinator receives the request for informal resolution.
- C. Confidentiality and Documentation. The University will document and record informal resolutions. The Title IX Coordinator will retain the documentation. If the individual's wish to remain anonymous limits the University's ability to establish facts and eliminate the potential harassment, the University will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

6.5 Formal Complaint and Investigation.

Formal Complaint. To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint. The University may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written

complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. The University office receiving the complaint should refer the complaint to the Title IX Coordinator.

Investigation.

- A. An investigator will be assigned to investigate the complaint.
- B. As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.
- C. The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
- D. Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- E. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- F. After the investigation is complete, a written report¹ will be issued to the Title IX Coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a "preponderance of the evidence" standard).
- G. After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at the university's discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have 7 business days from the date of receipt (as indicated on the return receipt) to submit written comments regarding the investigation to the Title IX Coordinator.
- H. Within 7 business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or his or her

¹ Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

designee will: (1) request further investigation into the complaint; (2) dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or (3) find that the Policy was violated. A decision that the Policy was violated shall be based on the record.

- I. If the Title IX Coordinator or his or her designee determines that the Policy was violated, he or she will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).
- J. The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with section 6.5.G of this Policy.
- K. The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

6.6 Standard of Proof. All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.

6.7 Timelines. Barring any unforeseen and reasonable delays, the University will endeavor to resolve complaints under this Policy no later than 60 calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60 calendar days, the University will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The University will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.

6.8 Remedies. In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- (a) Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
- (b) Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
- (c) Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
- (d) Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- (e) Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- (f) Determining whether sexual misconduct adversely affected the complainant's university standing;
- (g) Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
- (h) Conducting, in conjunction with University leaders, a University climate check to assess the effectiveness of efforts to ensure that the University is free from sexual misconduct, and using that information to inform future proactive steps that the University will take;
- (i) Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
- (j) Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

6.9 Sanctions and Discipline. Disciplinary action against faculty and employees will be handled under the University's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. The Office of Student Conduct will impose disciplinary action, if any, against a student under the University's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

[LINK TO APPROPRIATE POLICIES]

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the “preponderance of the evidence,” as defined in this policy.

6.10 Appeals. Both the complainant and the respondent may appeal the findings of the investigation or the disciplinary action. The appeal process when a student is the respondent will follow the appeal process set forth in the appropriate disciplinary policy. In the event the disciplinary policy does not contain an applicable appeal process the following process will be followed:

The appealing party must submit a written appeal stating the specific reasons for the appeal and any argument to the President of the institution or his/her designee (hereafter "Appeal Official") with a copy to the other party. The appeal must be stamped as received in the Office of Appeal Official no later than 14 days after the appealing party has been notified of the outcome of the investigation and the sanction assessed, if any. If the notice of outcome of the investigation or the sanction assessed is sent by mail, the date the notice or decision is mailed initiates the 14-day period for the appeal. The non-appealing party, may submit a response to the appeal, which must be received by the Appeal Official no later than five days after receipt of the appeal, with a copy to the appealing party. Appeals will be reviewed solely on the basis of the written appeal, response and the investigation record and disciplinary decision.

The grounds for an appeal are limited to the following:

- a. Previously unavailable relevant evidence
- b. substantive procedural error in the investigation
- c. a finding not supported by evidence
- d. bias on the part of the investigator

The Appeal Official may approve, reject, or modify the decision in question or may require that the original hearing be reopened for the presentation of additional evidence and reconsideration of the decision.

Sec. 7. Provisions Applicable to the Investigation.

7.1 Assistance. During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.

7.2 Time Limitations. Time limitations in these procedures may be modified by the Title IX Coordinator, Deputy Coordinator, or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University.

7.3 Concurrent Criminal or Civil Proceedings. The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action.

The University has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Sec. 6.7).

7.4 Documentation. The University shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and University policy.

Sec 8. Dissemination of Policy and Educational Programs.

8.1 This Policy will be made available to all University administrators, faculty, staff, and students online at [\[insert website\]](#). Periodic notices will be sent to University administrators, faculty, staff and students about the University's Sexual Harassment/Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.

8.2 Ongoing Sexual Misconduct Training. The University's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. The University will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise University administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal complaint.

8.3 Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to sexual misconduct.

Sec. 9. Additional Conduct Violations.

9.1 Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.

9.2 False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including

dismissal or separation from the University. A finding of non-responsibility does not indicate a report was false.

9.3 Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:

- (a) Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- (b) Removing, destroying, or altering documentation relevant to the investigation; or
- (c) Providing false or misleading information to the investigator, or encouraging others to do so.

9.4 No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated University rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a University employee. Nothing in this section shall limit the University's ability to take interim action.

Sec. 10 Documentation. The University shall confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator will document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

Sec. 11 Annual Reporting and Notice. The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, the University will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related University websites.

3. Definitions and Examples²

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.³

Dating Violence⁴ – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

² The definitions provided in the main body of the text are the definitions adopted by the University. When applicable, we have included the state law definition. In any criminal action brought by law enforcement, the state law definition will apply.

³ Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

⁴ Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.

The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violence⁵ – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and University visitors).

In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the

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- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

⁵ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001\(1\)\(C\)](#), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#).

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

Incapacitation – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Intimidation – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Responsible Employee – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.

Retaliation – Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

Sexual Assault⁶ – An offense that meets the definition of rape, fondling, incest, or statutory rape:

- a) *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b) *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- c) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d) *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in University activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

- a) Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. unwelcome intentional touching; or
 - ii. deliberate physical interference with or restriction of movement.

⁶ Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

- c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - i. explicit or implicit propositions to engage in sexual activity;
 - ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. persistent, unwanted sexual or romantic attention;
 - v. subtle or overt pressure for sexual favors;
 - vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - vii. deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence – Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking⁷ – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition--

- a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils,

⁷ Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

threatens, or communicates to or about a person, or interferes with a person's property.

- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

4. Relevant Federal and State Statutes, and Standards

[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11.](#)

[Clery Act, 20 U.S.C 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

[FERPA Regulations, 34 C.F.R. Part 99](#)

5. Other Relevant Policies, Procedures, and Forms

[Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships](#)

[University of Texas System Administration Systemwide Policy \(UTS 184\), Consensual Relationships](#)

[University's Non-Discrimination Policy](#)

[Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member](#)

[Staff Discipline and Discharge Policy](#)

[Student Conduct and Discipline](#)

6. System Administration Office(s) Responsible for Policy

Office of Compliance and Legal Affairs

7. Dates Approved or Amended

8. Contact Information

Questions or comments about this Policy should be directed to:

Office of Compliance and Legal Affairs (817) 272-2142

Handbook of Operating Procedures
The University of Texas at Austin



Policy Number: New 3-3031

Policy Contents:

- **Policy Statement**
- **Reason for Policy**
- **Scope & Audience**
- **Definitions**
- **Website (for policy)**
- **Contacts**
- **Responsibilities & Procedures**
- **Forms & Tools**
- **FAQs**
- **Related Information**
- **History**

Policy Title: Prohibition of Sex Discrimination, Sexual Harassment, Sexual Assault, Sexual Misconduct, Interpersonal Violence, and Stalking

Effective Date: July 1, 2015

Responsible Executive Sponsor:
Chief Compliance Officer and Vice President for Diversity & Community Engagement

Responsible Policy Owner:
University Title IX Coordinator and Office of Institutional Equity

Policy Contact:
University Title IX Coordinator

Prohibition of Sex Discrimination, Sexual Harassment, Sexual Assault, Sexual Misconduct, Interpersonal Violence, and Stalking

I. Policy Statement

It is the policy of The University of Texas at Austin ("University") to provide an educational and working environment for its students, faculty, and staff that is free from sex and gender discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence (including domestic violence and dating violence), and stalking. In accordance with federal and state law, the University prohibits discrimination on the basis of sex and gender and prohibits sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and stalking.

The University will not tolerate sex and/or gender discrimination (including discrimination on the basis of gender orientation, gender identity or gender expression), sexual harassment, sexual misconduct or physical abuse, threats of violence, physical assault, or any form of sexual violence including but not limited to sexual assault, acquaintance rape, domestic violence, dating violence or stalking. These unacceptable behaviors are hereafter collectively referred to as "prohibited conduct." Individuals who alone, or in concert with others, participate or attempt to participate in prohibited conduct described in this policy are subject to disciplinary action by the University, notwithstanding any action that may or may not be taken by civil or criminal authorities.

The University strongly urges students, faculty, staff, and third-parties to promptly report incidents of prohibited conduct as provided in this policy. Responsible Employees of the University (as defined below) are required to promptly report incidents of prohibited conduct as provided in this policy. The University will respond to all reports of prohibited conduct. As described in this policy, the University will conduct a prompt, fair, and impartial investigation and resolution for complaints and, where appropriate, issue remedial measures and/or sanctions. The standard of evidence that will be used in investigating and resolving complaints made under this policy is the "preponderance of the evidence" standard. This standard is met if the allegation is deemed more likely to have occurred than not.

II. Reason for Policy

This policy provides information regarding the University's prevention and education efforts related to sex discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and stalking. The policy also explains how the University will proceed once it is made aware of allegations of prohibited conduct in keeping with the University's values and in order to meet the legal obligations of Title VII and Title IX, and other applicable law.

III. Scope & Audience

This policy applies to all University students and employees, visitors, applicants for admission to or employment with the University, as well as University affiliates and others conducting business on campus.

In addition to incidents that occur on the University campus, the University may investigate and take disciplinary action in response to incidents that take place during official functions of the University, or incidents that have a substantial connection to the interests of the University regardless of the location in which the incident(s) occur.

IV. Definitions (specific to this policy)

For purposes of this policy, the below definitions apply. However, some of these terms are also defined under federal and/or Texas State law. For more information regarding state law definitions, please refer to Section X of this policy.

Complaint: A signed document or other report, including verbal reports (if appropriately acknowledged), alleging a violation of this policy.

Complainant: A person who submits a complaint alleging a violation of this policy.

Consent: A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to engage in sexual activity.

An individual's manner of dress or the existence of a current or previous dating or sexual relationship between two or more individuals does not, in and of itself, constitute consent to engage in a particular sexual activity. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

Incapacitation: A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Interpersonal Violence: An offense that meets the definition of domestic violence or dating violence:

Domestic Violence: Abuse or violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person with whom the complainant is cohabitating (or has cohabited) with a spouse or

intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the State of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Texas.

Dating Violence: Abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship will be determined based on the complainant's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.

Respondent: The person designated to respond to a complaint. Generally, the respondent is the person alleged to be responsible for the prohibited conduct alleged in a complaint.

Responsible Employee: Pursuant to Title IX, a Responsible Employee is a University employee who has the authority to take action to redress an alleged violation of this policy; who has been given the duty of reporting such allegations to the University Title IX Coordinator or designee; or whom an individual could reasonably believe has this authority or duty.

At the University of Texas at Austin, Responsible Employees include, but are not limited to:

- administrators
- academic advisors
- coaches, and other athletic staff who interact directly with students
- faculty members, including professors, adjuncts, lecturers, associate/assistant instructors (AIs), and teaching assistants (TAs)
- graduate research assistants
- residence life directors
- resident assistants
- all supervisory staff

Responsible Employees have a **duty** to promptly report incidents of sex discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and stalking to the University Title IX Coordinator or Deputy Title IX Coordinators. Responsible Employees are not confidential reporting resources.

Retaliation: Any action that adversely affects the academic, employment, or other institutional status of a student or employee of the University, visitor, applicant for admission to or employment with the University, because an individual has, in good faith, brought a complaint under this policy, opposed an unlawful practice, participated in an investigation, or requested accommodations. Examples of retaliation include, but are not limited to: denial of promotion, non-selection/refusal to hire, denial of job benefits, demotion, suspension, discharge, threats, reprimands, negative evaluations, harassment; or other adverse treatment that is likely to deter reasonable people from pursuing their rights. Retaliation is strictly prohibited and will not be tolerated.

Sex Discrimination: Conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects the individual or group's employment or education on the basis of sex (gender).

Alleged discriminatory behavior that is not on the basis of sex (gender) is not covered by this policy; however, such discriminatory conduct is addressed by other University policies prohibiting discrimination on a variety of bases. See [HOP 3-3020](#) Nondiscrimination Policy.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape:

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is younger than 17 years of age and is not a spouse of the respondent.

Sexual Harassment: Unwelcome conduct of a sexual nature. Sexual harassment is a form of sex discrimination that can occur when

- the submission to unwelcome physical conduct of a sexual nature, or to unwelcome requests for sexual favors or other verbal conduct of a sexual nature, is made an implicit or explicit term or condition of employment or education;
- the submission to or rejection of unwelcome physical conduct of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, is used as a basis for academic or employment decisions or evaluations;
- unwelcome physical acts of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, that have the effect of creating an objectively hostile environment that substantially interferes with employment or education on the basis of sex; or
- such conduct is intentionally directed towards a specific individual and has the purpose or effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive atmosphere.

Sexual harassment may include

1. Sexual violence, as defined under the Texas Penal Code, which includes rape, sexual assault, sexual battery, and sexual coercion.
2. Physical conduct that, depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes. but is not limited to
 - unwelcome intentional touching; or
 - deliberate physical interference with or restriction of movement.

3. Verbal conduct, including oral, written, or symbolic expression, that, depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes, but is not limited to
 - explicit or implicit propositions to engage in sexual activity;
 - gratuitous comments, jokes, questions, anecdotes, or remarks of a sexual nature about clothing or bodies;
 - gratuitous remarks about sexual activities or speculation about sexual experiences;
 - persistent, unwanted sexual or romantic attention;
 - subtle or overt pressure for sexual favors;
 - exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or
 - deliberate, repeated humiliation or intimidation based upon sex.

This policy applies only to verbal conduct that is not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

Sexual Misconduct: Behavior or conduct of a sexual nature that is unprofessional and/or inappropriate for the educational and/or working environment. Behaviors that may constitute sexual misconduct include, but are not limited to

- repeatedly engaging in sexually oriented conversations, comments, or horseplay, including the use of language or the telling of jokes or anecdotes of a sexual nature in the workplace, office, or classroom, even if such conduct is not objected to by those present;
- gratuitous use of sexually oriented materials not directly related to the subject matter of a class, course, or meeting, even if not objected to by those present;
- failure to observe the appropriate boundaries of the supervisor/subordinate or faculty member/student relationship, including the participation of a supervisor, teacher, advisor, or coach in an unreported consensual romantic or sexual relationship with a subordinate employee or student; or
- engaging in any form of sexual exploitation. Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others or would cause that person to suffer substantial emotional distress. A “course of conduct” means two or more acts in which a person directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person’s property. “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the complainant. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

V. Website (specific to this policy)

<http://www.policies.utexas.edu/policies/hop/3-3031>

VI. Contacts

| Contact | Details | Web |
|--|--|--|
| University Title IX Coordinator | Phone:512-232-3992 | Website: http://www.utexas.edu/titleix/ Email: TitleIX@austin.utexas.edu |
| Deputy Title IX Coordinator: Office of Institutional Equity (Faculty & Staff Concerns) | Phone:512-471-1849 | Website: http://www.utexas.edu/equity Email: equity@utexas.edu |
| Deputy Title IX Coordinator: Student Emergency Services (Student Concerns) | Phone:512-471-5017 | Website: http://deanofstudents.utexas.edu/emergency/ Email: studentemergency@austin.utexas.edu |
| UT Counseling and Mental Health Center (CMHC) | Address: Student Services Building (SSB) 5th Floor Phone: 512-471-3515 24-Hour Telephone Counseling: 512-471-CALL (2255) | Website: http://www.cmhc.utexas.edu/index.html |
| University Health Services (UHS) | Address: Student Services Building (SSB) 1st Floor Phone: 512-475-4955 Nurse Advice Line: 512-475-NURS (6877) | Website: http://www.healthyhorns.utexas.edu/index.html |
| Employee Assistance Program (EAP) | Phone: 512-471-3366 24-hour Telephone Line: 512-471-3399 | Website: http://www.utexas.edu/hr/eap Email: eap@austin.utexas.edu |

VII. Responsibilities & Procedures

A. Filing a Complaint and Reporting Violations

1. Reporting

All administrators, faculty, staff, students, and third parties are strongly encouraged to promptly report any incidents of sex discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and/or stalking to the University Title IX Coordinator, a Deputy Title IX Coordinator, or through other reporting channels listed below.

Individuals wishing to file a complaint of sex discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and/or stalking are also strongly encouraged to promptly notify the University Title IX Coordinator, a Deputy Title IX Coordinator, or a Responsible Employee. Responsible Employees are in turn required to promptly notify the University Title IX Coordinator or a

Deputy Title IX Coordinator of the complaint. Individuals also have the right to pursue a legal remedy for the prohibited conduct covered by this policy in addition to or instead of proceeding under this policy.

A complaint under this policy may be filed by the University, faculty, staff, student, or third party based on the alleged conduct of any University employee, including faculty, staff, student-employee, as well as visitors, University affiliates and others conducting business on campus. Complaints based on the alleged conduct of students who are not also employees of the University are addressed in the *General Information Catalog* ("GIC"), [Appendix D](#).

- a. Rights and Responsibilities. The University shall provide all complainants who allege they have experienced prohibited conduct with information about
 - applicable University policies and procedures, including the University's investigation and resolution process;
 - rights and University responsibilities with respect to orders of protection, restraining orders, and/or no contact orders and how to obtain such orders;
 - options about the involvement of law enforcement authorities; and
 - available campus and community resources.
- b. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the University Title IX Coordinator or a Deputy Title IX Coordinator; however, electing to remain anonymous may greatly limit the University's ability to stop the prohibited conduct, collect evidence, or take effective action against individuals or organizations accused of violating the policy.
- c. Confidentiality. The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in this policy.
- d. Timeliness of Complaint. To promote timely and effective review, the University strongly encourages individuals who believe they have experienced or witnessed prohibited conduct to come forward promptly with their inquiries, reports, or complaints and to seek assistance from the University. Responsible Employees are *required* to promptly report incidents of prohibited conduct to the University Title IX Coordinator or a Deputy Title IX Coordinator. Delays in reporting can greatly limit the University's ability to stop the prohibited conduct, collect evidence, and/or take effective action against individuals or organizations accused of violating the policy.

B. Prohibition on Retaliation

Retaliation against a person who reports a potential violation under this policy, assists someone with a report of a violation, or participates in any manner in an investigation or in the resolution of a complaint made under this policy is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to, threats, intimidation, reprisals and/or adverse actions related to an individual's employment or education. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an investigation pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing

retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this policy.

C. Support Services

Any University employee who requires assistance with work arrangements and/or University-provided support services and referrals as a result of an alleged violation of this policy is encouraged to visit the Office of Institutional Equity (OIE) for additional information. OIE staff can assist employees with the various reporting options and support services that may be available to them.

Any University student who requires assistance with classes, living arrangements, and/or University-provided support services and referrals as a result of an alleged violation of this policy is encouraged to visit the Office of the Dean of Students - Student Emergency Services (SES) for additional information. SES staff can assist students with the various reporting options and support services that may be available to them.

If an employee or student believes he or she has experienced conduct prohibited under this policy, the individual may also contact the University Title IX Coordinator or a Deputy Title IX Coordinator for additional assistance and information. Employees/students who would like to report an alleged sexual assault, interpersonal violence (including domestic violence and dating violence) and/or stalking to the police and would like the University Title IX Coordinator or a Deputy Title IX Coordinator to accompany him or her to provide support during the reporting process, should contact the University Title IX Coordinator or a Deputy Title IX Coordinator via the contact information provided above.

The University also encourages anyone who believes they experienced or witnessed a sexual assault (or any other crime) to make a report to the University of Texas Police Department (UTPD), if the assault occurred on campus, or to local law enforcement, for assaults occurring off campus.

University of Texas Police Department (UTPD)

Phone: 512-471-4441, then enter "9" (for non-emergencies)
Emergencies: 911
Address: 2201 Robert Dedman Drive
Austin, TX 78705

Austin Police Department

Phone: 512-974-5000
Emergencies: 911

Individuals may also contact the following external, federal and state agencies:

U.S. Department of Education (Office for Civil Rights)

1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
Phone: 214-661-9600
Fax: 214-661-9587
OCR.Dallas@ed.gov

U.S. Equal Employment Opportunity Commission

Legacy Oaks, Building A

Suite 200
San Antonio, TX 78229
Phone: 800-669-4000
Fax: 210-281-7690
<http://www.eeoc.gov>

Texas Workforce Commission

Civil Rights Division
101 E. 15th Street
Room 144-T
Austin, TX 78778-0001
Phone: 512-463-2642
www.twc.state.tx.us

D. Confidentiality and Anonymity

Individuals wishing to remain anonymous can file a complaint (by telephone or in writing) with the University Title IX Coordinator or a Deputy Title IX Coordinator. However, electing to remain anonymous may greatly limit the University's ability to investigate an alleged incident, collect evidence and/or take effective action against individuals or organizations accused of violating this policy.

The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. In the event confidentiality cannot be maintained, the University will share information only as necessary and only with people who need to know to fulfill the purposes of this policy and applicable law, such as investigators, witnesses, administrators, and the respondent. The University will comply with the Family Educational Rights and Privacy Act (FERPA), with [Texas Education Code Section 51.971](#) and other confidentiality laws as they apply to Title IX investigations.

Complainants who want to discuss a complaint in strict confidence may use the confidential support resources described in this policy.

E. Complaint Investigation and Disciplinary Process

The University strongly encourages the prompt reporting of prohibited conduct covered by this policy. Delays in reporting can greatly limit the University's ability to stop the alleged conduct, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy. A report of alleged violations of this policy may be made by

- a person who believes they experienced prohibited conduct (a complainant); and/or
- a person who has information that prohibited conduct may have been committed (a reporter).

Once a report of prohibited conduct is received, the University will respond promptly and investigate the report in a fair and impartial manner. Where warranted, the University will enact interim measures. The University will handle reports of prohibited conduct consistently with procedural guidelines developed to ensure prompt and equitable resolution of such reports. If a complainant chooses not to participate in the University's investigation of a report, the University may, at its discretion, pursue the report without the complainant's participation.

The purpose of an investigation, which includes interviewing the parties and witnesses, is to gather and assess evidence. The standard of evidence that will be used in investigating and adjudicating complaints made under this policy is the “**preponderance of the evidence**” standard. This standard is met if the allegation is deemed more likely to have occurred than not. All investigators shall have appropriate and ongoing training regarding issues related to domestic violence, dating violence, sexual assault, sexual misconduct and stalking, as well as, on how to conduct an investigation that protects the safety of complainants and promotes accountability.

Possible outcomes of an investigation are (1) a finding that the allegations are not warranted or could not be substantiated; (2) a finding that the allegations are substantiated and constitute a violation of the policy and, if so, (3) referral to the appropriate administrative authority for corrective action. The University will also provide interim and remedial measures, to the extent possible, to protect the reporting party and eliminate any hostile environment.

1. Complaints against UT students

Individuals may report an alleged violation of this policy by a University student to the University Title IX Coordinator, or a Deputy Title IX Coordinator, the Office of the Dean of Students, or to any Responsible Employee listed below which includes, but is not limited to:

- administrators
- academic advisors
- coaches, or other athletic staff who interact directly with students
- faculty members, including professors, adjuncts, lecturers, associate/assistant instructors (AIs), and teaching assistants (TAs)
- graduate research assistants
- residence life directors
- resident assistants
- all supervisory staff

Responsible Employees are in turn required to promptly notify the University Title IX Coordinator or a Deputy Title IX Coordinator of the reported incident. Responsible Employees are not confidential reporting resources.

Depending on the respondent’s relationship with the University, the investigation will be managed by the Office of the Dean of Students - Student Judicial Services or the Office of Institutional Equity according to their respective procedures.

Student Judicial Services processes complaints of violations of this policy as provided in [Appendix C](#), Chapter 11, *Student Discipline and Conduct*.

The Office of Institutional Equity processes complaints of violations of this policy as provided in its Procedure and Practice Guide, available at <https://www.utexas.edu/equity/policies/procedure-and-practice-guide>.

2. Complaints against UT Employees (faculty and staff), Visitors, or Contractors

Individuals may report an alleged violation of this policy by a University employee, including faculty, staff, and student employees, as well as visitors, or contractors to the University Title IX Coordinator, a Deputy Title IX Coordinator, the Office of Institutional Equity, or to any Responsible Employee listed below which includes, but is not limited to:

- administrators
- academic advisors
- coaches, or other athletic staff who interact directly with students
- faculty members, including full-time professors, adjuncts, lecturers, associate/assistant instructors (AIs), and teaching assistants (TAs)
- graduate research assistants
- residence life directors
- resident assistants
- all supervisory staff members

Responsible Employees are in turn required to promptly notify the University Title IX Coordinator or a Deputy Title IX Coordinator of the reported incident. Responsible Employees are not confidential reporting resources.

Depending on the respondent's relationship with the University, the investigation will be managed by the Office of the Dean of Students - Student Judicial Services or the Office of Institutional Equity according to their respective procedures.

Student Judicial Services processes complaints of violations of this policy as provided in [Appendix C](#) (Chapter 11, Student Discipline and Conduct).

The Office of Institutional Equity processes complaints of violations of this policy as provided in its Procedure and Practice Guide, available at <https://www.utexas.edu/equity/policies/procedure-and-practice-guide>.

3. Summary of Rights of the Complainant and Respondent in Investigations Pursuant to this Policy

Parties to an investigation initiated pursuant to this policy shall

- receive a prompt, fair, and impartial investigation and resolution of all reports of prohibited conduct by an investigator(s) who is properly trained to investigate and resolve such allegations;
- be notified of available counseling, mental health, academic, legal and other applicable support services, both at the University and in the community;
- be informed of all applicable University policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- have the right to be accompanied by an advisor of the individual's choosing during all meetings, proceedings, and/or disciplinary hearings at which the individual is present. (The role of the advisor will be limited to being present only; advisors are not allowed to actively participate in the process);

- be given equal chance to participate in the investigation process, including the opportunity to identify witnesses and other relevant evidence;
 - be simultaneously informed in writing of the outcome of any University disciplinary hearing arising from an allegation of prohibited conduct, of the University's procedures for appealing the results of the disciplinary hearing, of any changes in the outcome that occurs before the outcome is finalized, and of the University's final outcome.
4. Informal Resolution Options. The University recognizes that in some limited circumstances (but never in cases involving sexual violence) voluntary informal resolution options may be an appropriate means of addressing some behaviors reported under this policy. If the informal resolution process is deemed appropriate by the University Title IX Coordinator, or designee, then the complainant will be provided assistance in informally resolving the issue.
5. Interference with an Investigation. Any person who knowingly and intentionally interferes with an investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an investigation may include, but is not limited to
- attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
 - removing, destroying, or altering documentation relevant to the investigation; or
 - providing false or misleading information to the investigator, or encouraging others to do so.

F. Bystander Intervention

Bystanders play a critical role in the prevention of sexual assaults, domestic violence, dating violence, and stalking. For example, bystanders may have the power to stop assaults, get help for people who have been victimized, and/or alert the appropriate authorities. The University is committed to promoting a culture of shared accountability where bystanders are actively engaged in the prevention of prohibited conduct. As such, all members of the University community are encouraged to intervene or interrupt prohibited conduct they witness. Examples of bystander intervention include

- confronting people who seclude, hit on, or sexually assault people who are incapacitated;
- speaking up when someone discusses plans to take sexual advantage of another person;
- calling the police when a person is being physically abusive towards another;
- refusing to leave the area (or call police) if a person is trying to get you to leave so they can take advantage of another;
- ensuring that community members who are incapacitated are not left alone or in vulnerable situations; and

- referring people to appropriate University and community resources.

G. Ongoing Training

The University's commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this policy includes offering ongoing education to both employees and students. To that end, this policy will be published on the University's website. Information regarding this policy and related policies will also be included in orientation materials for new students, faculty, and staff. Appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as, safe and positive options for bystander intervention that may be carried out by individuals to prevent harm or intervene when there is a risk of sexual misconduct being inflicted on another person. In addition, the University Title IX Coordinator, Deputy Title IX Coordinators, and all investigators and hearing officers receive training each academic year about offenses, investigatory procedures, due process requirements, conducting a hearing, and University policies related to or described in this policy. The University is committed to protecting the safety of complainants and the due process rights of respondents, as well as promoting accountability.

H. Academic, Living, Travel, or Work Accommodation(s)

In some instances, when an individual reports an alleged violation of this policy to the University, the University may take emergency action to protect the emotional health or physical safety of the reporting individual and/or of the larger University community. Such arrangements will be facilitated through the appropriate University officials and all decisions will be based upon the evidence then available.

I. Interim Measures and Final Sanctions

1. Interim and remedial measures: The University may implement interim measures, as may be necessary to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination, or retaliation, and to protect the safety and well-being of community members. Appropriate University officials will decide if and what interim measures are necessary. Such interim measures may include, but are not limited to, separating the complainant's and respondent's academic or working situations, forbidding contact between parties involved in a complaint, suspending the right of the respondent to be present on campus or otherwise altering the University status of the respondent. Other interim measures may be implemented given the respondent's relationship with the University. These interim measures may be kept in place through the conclusion of any review, investigation, or appeal process.
2. Final sanctions: If a respondent is found responsible for violating this policy, the University may impose a sanction on the respondent and initiate additional remedial actions.

Disciplinary action against faculty and staff will be handled under the University's policies for discipline and dismissal of faculty and staff. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal.

Disciplinary action against a student will be imposed by the Office of the Dean of Students in accordance with University's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

J. Options and Resources

Below is a list of educational and preventive programs and support services on and off campus that provide information relating to sexual assault, interpersonal violence (including domestic violence and dating violence), and stalking. Brochures and other printed materials are available from each office. Additional information may be obtained by calling the numbers or visiting the web sites listed below.

1. Police and Medical Resources

An individual who experiences any form of sexual assault is strongly encouraged to seek immediate medical care. Individuals can undergo a medical exam to properly collect and preserve physical evidence of the sexual assault with or without the police's involvement. It is important to preserve forensic and other physical evidence that may assist in proving the alleged criminal offense occurred and such evidence may be helpful in obtaining a protection order against the respondent. Therefore, a medical exam should be performed immediately after the event, if possible. If a medical exam is not or cannot be performed immediately after the event, individuals may still obtain a Sexual Assault Forensic Exam (SAFE) within five (5) days of the sexual assault if law enforcement is involved and within four (4) days if they are not. With the individual's consent, the physical evidence collected during this medical exam can be used as part of a criminal investigation; however, an individual may undergo a SAFE regardless of whether he/she has contacted, or intends to contact, the police. To obtain a SAFE exam contact SafePlace at (512 267-SAFE). For additional information, see <http://hopelaws.org/>. An individual may also seek an exam from their own physician.

The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE. For more information about financial resources available for individuals who experience any form of sexual assault, please see the information about Voices Against Violence and Student Emergency Services below.

Reporting an assault to law enforcement does not mean the case will automatically go to criminal trial or through University disciplinary processes. If the police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by a police department counselor. A report may be filed with the police regardless of whether or not the accused was a UT student.

If a decision is made to make a report to the police, it is important to note that police jurisdictions depend on where the sexual assault occurred.

If the alleged incident occurred on campus, a report may be filed with the UT Police Department (UTPD) by calling 512-471-4441, enter "9" (for non-emergencies) or in person at UTPD headquarters at 2201 Robert Dedman Drive, Austin, TX 78705 (across from the Manor Garage and Darrell K Royal-Texas Memorial Stadium).

If the alleged incident occurred in Austin but off-campus, a report may be filed with the Austin Police Department (APD), regardless of time elapsed since the assault occurred. If a report is made to the police, a uniformed officer will be dispatched to the location to make a written report.

- Emergency: 911
- Victim Services (bilingual operators available): 512-974-5037
- Relationship violence (Family Protection Team): 512-974-8535
- Non-emergency stalking reports: 311

An individual who has experienced a sexual assault is strongly encouraged to seek medical and psychological care regardless of whether he/she intends to request a SAFE or report the assault to the police. He/she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy regardless of whether the police were contacted or a SAFE was performed. Medical care can be provided at University Health Services (for students), at a local emergency room, or by a private physician. Psychological support can be provided by the UT Counseling and Mental Health Center (for students), SafePlace, or by a care provider of the individual's choosing.

UHS Nurse Advice Line is staffed 24 hours a day, every day of the year. Students may call 512-475-6877 (NURS) for free advice and guidance about health-related questions.

An individual who experiences any form of sexual assault may pursue any civil or criminal remedies provided by state law. An individual does not need to file a criminal police report to either use on or off-campus resources or to file a complaint with the University.

2. Confidential On-Campus Resources

If an individual would like the details of the incident to remain confidential, he/she should speak with a campus mental health counselor, campus health service providers, Employee Assistance Program (EAP) counselors, and/or off-campus rape crisis resources who can maintain confidentiality. Campus counselors may be seen on an emergency basis.

Counseling and Mental Health Center: <http://www.cmhc.utexas.edu/>

512-471-3515

- Provides information about safety, legal, housing, academic, and medical options and manages the VAV Survivor Emergency Fund
- Offers individual and group counseling service
- Operates twenty-four-hour telephone counseling service at 512-471-CALL (471-2255)

University Health Services: <http://www.healthyhorns.utexas.edu/>

Appointments: 512-471-4955

24 Hr. Nurse Advice Line: 512-475-NURS (475-6877)

- Provides general exams to treat injuries, both internal and external

University Employee Assistance Program: <http://www.utexas.edu/hr/eap/>

Appointments: 512-471-3366

For emergency situations outside normal working hours call: 512-471-3399

- Provides short term, problem solving counseling sessions.
- Available following any trauma or crisis experienced by an employee.

3. Non-Confidential On-Campus Resources (with Title IX Reporting Obligations)

You are **strongly encouraged** to report an alleged violation of this policy to a University Responsible Employee (e.g., an administrator, academic advisor, coach, faculty member). When a Responsible Employee is informed of an alleged violation of this policy, the Responsible Employee is **required** to notify the University Title IX Coordinator or a Deputy Title IX Coordinator of the allegation. The University takes reports of alleged violations of this policy very seriously and will investigate such allegations. Formal reporting to a Responsible Employee means that only people who need to know of the alleged violation will be informed, and such information will be shared only as necessary with relevant University employees, witnesses, and the accused individual.

University Title IX Coordinator

University Compliance Services

512-232-3992

titleix@austin.utexas.edu

www.utexas.edu/TitleIX

Deputy Title IX Coordinator for Faculty/Staff

Office of Institutional Equity

512-471-1849

equity@austin.utexas.edu

www.utexas.edu/TitleIX

Deputy Title IX Coordinator for Students

Student Emergency Services

Office of the Dean of Students

512-471-5017

studentemergency@austin.utexas.edu

www.utexas.edu/TitleIX

Student Emergency Services

512-471-5017

<http://deanofstudents.utexas.edu/emergency/>

- May provide limited emergency funds
- Assists with academic issues
- Provides referrals within the University and in the Austin area when necessary
- Serves as an advocate for students while working with other campus departments

Student Judicial Services

512-471-2841

<http://deanofstudents.utexas.edu/sjs/>

- Provides information about how the University's investigation and student disciplinary process works
- Investigates allegations that a student respondent may have violated University policy and administers the University disciplinary process
- Issues no contact directives to students involved in a complaint

University of Texas Police Department

512-471-4441, enter "9" (for non-emergencies)

<http://www.utexas.edu/police/>

- Offers crime prevention presentations that include issues related to assault
- Publishes crime statistics information
- Teaches free Rape Aggression Defense (RAD) classes to University students, staff members, and faculty members

Behavior Concerns Advice Line (BCAL)

512-232-5050

<https://www.utexas.edu/safety/bcal/>

- Allows members of the University community to discuss their concerns about an individual's behavior
- Offers a centralized resource that is available twenty-four hours a day for anyone who is not sure how to help a person he or she is concerned about

New Student Services

512-471-3304

<http://deanofstudents.utexas.edu/nss/>

- Provides programs to raise awareness of sexual assault on campus and resources for prevention and support
- Trains Orientation advisers about issues related to sexual assault and interpersonal violence

Sorority and Fraternity Life

512-471-9700

<http://deanofstudents.utexas.edu/sfl/>

- Conducts educational workshops for individual fraternities and sororities
- Provides sexual assault education to all incoming pledges

Student Ombuds Services

512-471-3825

<http://www.utexas.edu/students/ombuds>

- Provides information about University resources and University processes to students.

Faculty Ombuds Services

512-232-3535

<http://www.utexas.edu/faculty/council/ombuds/>

- Provides information about University resources and University processes to faculty.

Staff Ombuds Services

512-232-8205

<https://www.utexas.edu/staff/ombuds>

- Provides information about University resources and University processes to staff.

University Residence Halls

512-471-8631

<http://www.utexas.edu/student/housing/>

- Trains resident assistants on issues related to sexual assault
- Publishes an online safety handbook
- Offers individual and group support and follow-up

4. Austin Community Resources

SafePlace

512-267-SAFE

<http://www.safeplace.org/>

- Operates a twenty-four-hour hotline
- Helps individuals who have experienced a sexual assault navigate the forensic medical exam
- Offers individual and group therapy for individuals who have experienced sexual assault and/or domestic violence
- Provides domestic violence shelter services

Austin Police Department

911

<http://www.austintexas.gov/department/police>

- At 911, provides emergency response and takes reports of sexual assaults
- Offers Victim Services counselors at 512-974-5037

St. David's Hospital Emergency Room

512-544-4240

<http://www.stdavids.com/locations-facilities/st-davids-medical-center.aspx>

- Operates emergency room, located at 919 East 32nd Street, Austin, TX 78705

University Medical Center Brackenridge – Seton

512-324-7000

<http://www.seton.net/locations/brackenridge/>

- Operates emergency room, located at 601 East 15th Street, Austin, TX 78701

K. State Law Definitions

If a person would like to press criminal charges for an alleged violation of any of the below criminal laws, or would like to seek an order of protection, the definitions contained in the Texas Penal Code would apply; not the internal definitions used in this policy.

Dating Violence: “an act, other than a defensive measure to protect oneself, by an individual that is committed against a victim with whom the actor has or has had a dating relationship; or because of the victim’s marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault. ‘Dating relationship’ means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of the length of the relationship; the nature of the relationship; and the frequency and type of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a ‘dating relationship.’” Texas Family Code Section 71.0021.

Domestic (Family) Violence: “an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself, or abuse by a member of a family or household toward a child of the family or household, or dating violence.” Texas Family Code Section 71.004.

Sexual Assault: “a person commits an offense if the person (1) intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or (2) intentionally or knowingly causes the penetration of the anus or sexual organ of a child by any means; causes the penetration of the mouth of a child by the sexual organ of the actor; causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

A sexual assault is without the consent of the other person if: the actor compels the other person to submit or participate by the use of physical force or violence; the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; the actor is a public servant who coerces the other person to submit or participate; or the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor. ‘Child’ means a person younger than 17 years of age. ‘Spouse’ means a person who is legally married to another.” Texas Penal Code Section 22.011.

Stalking: “a person who, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that: (1) the person knows or reasonably believes the other person will regard as threatening including bodily injury or death for the other person, bodily injury or death for a member of the other person’s family or household or for an individual with whom the other person has a dating relationship, or fear that an offense will be committed against the other person’s property, and (2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property, and (3) would cause a reasonable person to fear bodily injury or death for himself or herself, or bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship, or fear that an offense will be committed against the person’s property. A fact

finder may find that different types of conduct described above, if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct.” Texas Penal Code Section 42.072.

VIII. Forms & Tools

For a complete list of University and community resources see below or the University’s Title IX Resource Guide at: [http://www.utexas.edu/sites/default/files/files/Title IX Resource Guide Sexual Assault-2014.pdf](http://www.utexas.edu/sites/default/files/files/Title%20IX%20Resource%20Guide%20Sexual%20Assault-2014.pdf)

IX. Frequently Asked Questions

None

X. Related Information

[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11](#)

[Clery Act, 20 U.S.C 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

[FERPA Regulations, 34 C.F.R. Part 99](#)

[Texas Education Code, Chapter 51, Section 51.971](#)

[Texas Penal Code, Chapter 22, Section 22.01](#)

[Texas Penal Code, Chapter 22, Section 22.011](#)

[Texas Penal Code, Chapter 42, Section 42.072](#)

[Texas Family Code, Chapter 71, Section 71.004](#)

[Texas Family Code, Chapter 71, Section 71.0021](#)

UT System Policy [UTS184, Consensual Relationships](#)

Board of Regents’ [Rule 31008](#), Termination of a Faculty Member

[HOP 2-2150](#) Annual Review and Periodic Evaluation of Tenured Faculty

[HOP 5-2420](#) Policies and Procedures for Discipline and Dismissal of

Student Discipline is found in the [General Information Catalog](#)

XI. History

Last review date: July 01, 2015

Editorial changes made July 10, 2015 and July 17, 2015

Next scheduled review: July 2017

This policy replaces the former HOP 3-3030 "Sex Discrimination and Sexual Harassment" and HOP 3-3040 "Sexual Misconduct" retired effective July 1, 2015 when this policy became effective.

Prohibited Discrimination and Sexual Harassment/ Sexual Misconduct Policy

Sec. 1 General Policy Statement.

- 1.1 The University of Texas at Dallas (the University) is committed to maintaining a learning and working environment that is free from [discrimination](#) and harassment based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct is a form of sex discrimination and will not be tolerated. As stated in the definition, sexual misconduct includes [sexual harassment](#), [sexual violence](#), [sexual assault](#), [stalking](#), [domestic violence](#) and/or [dating violence](#). Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action. The university prohibits [retaliation](#).
- 1.2 It is the policy of The University of Texas at Dallas to provide an educational and working environment that provides equal opportunity to all members of the University community. In accordance with federal and state law, the University prohibits unlawful discrimination against someone because of a person's race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, or veteran status. The University's commitment to equal opportunity extends its nondiscrimination protections to include sexual orientation, gender expression, and gender identity.
- 1.3 The University will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The University encourages any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified in Section 3.2.

Sec. 2 Applicability.

This Policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University. It also applies regardless of the gender, sexual orientation, gender expression, gender identity. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

Sec. 3 Filing a Complaint and Reporting Violations.

3.1 All Members of the University Community, Third Party and Anonymous Complaints. All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of Discrimination, sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.

- (a) **Anonymity.** Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit the University's ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.
- (b) **Confidentiality.** The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section 3.5.
- (c) **Timeliness of Complaint.** Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.

3.2 Responsible Employees. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include **all** administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5.¹ Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the following website: www.utdallas.edu/titleIX

¹ For example, a student may make a complaint to an employee in the Dean of Students' Office, a faculty member or university police. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report the complaint to the Title IX Coordinator or other appropriate designee.

3.3. Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas at Dallas Police Department at (972) 883-2222 or to the City of Richardson Police Department (972) 744-4800 (non-emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Deputy Coordinators can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department.

If a complaint of sexual misconduct is reported to the University Police Department, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police Department shall also notify the Title IX Coordinator of the complaint, and provide the Title IX Coordinator or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

3.4 Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

Office for Civil Rights

U.S. Department of Education
1999 Bryan Street
Dallas, TX 75201-6810
Phone: (214) 661-9600
Fax: (214) 661-9587
Email: OCR.Dallas@ed.gov

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of discrimination, sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission

Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202
Phone: (800) 669-4000, FAX: (214) 253-2720

3.5 Confidential Support and Resources. Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission.

Thus, students may discuss an incident with a counselor in the Student Counseling Center, the Women's Center, a health care provider in the Student Health Center, the clergyperson of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator. The University and community resources that provide such services are at [APPENDIX A](#).

3.6 Immunity. In an effort to encourage reporting of sexual misconduct, the University may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this Policy.

3.7 Title IX Coordinator and Deputy Coordinators. The Title IX Coordinator and Deputy Coordinators are: James C. Dockery, AVP Institutional Equity and Compliance and Title IX Coordinator; Dean of Students, Deputy Title IX Coordinator. As appropriate, the university may expand the list of Deputy Coordinators.

Sec. 4. Parties' Rights Regarding Confidentiality.

4.1 The University has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

4.2 In the course of the investigation, the University may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. The University will take all reasonable steps to ensure there is no retaliation against a complainant. The University will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the University will also protect the privacy of all parties to a report of sexual misconduct.

Sec. 5. Victims Resources.

5.1 Immediate Assistance.

In addition to the resources listed below, a detailed list of resources can be found at [APPENDIX A](#).

- (a) Healthcare. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to any nearest hospitals with emergency rooms (Under Senate Bill 1191 - from September 1, 2013, all Texas hospitals with emergency rooms are required to have staff trained in at least basic collection of forensic evidence from sexual assault victims). To date, [Methodist Hospital](#) Dallas uses SANE nurses to perform SAFE examination.
- (b) For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>
The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.
- (c) Police Assistance. The University encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on the University campus, a report may be filed with the [UTD Police Department](#) by calling at 972-883-2222 or in person at UT Dallas Police headquarters, 800 W. Campbell Road, PD11, Richardson, TX 75080, even if time has passed since the assault occurred.
- (d) The University of Texas at Dallas Police Department can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a University disciplinary hearing. If the University police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by a police department officer. A report may be filed with the University police even if the assailant was not a

University student or employee. If the incident occurred in the City of Richardson or Dallas but off campus, a report may be filed with the local Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

- (e) Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.
- (f) Medical care can be provided at University Health Services (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by the University Counseling and Psychological Services (students), Employee Assistance (employees), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

5.2 Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, the University will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the University may be able to provide additional accommodations for a complainant while an investigation is pending.

Sec. 6 Intake Procedures and Protocol.

6.1 Key Officials in an Investigation.

- (a) Title IX Coordinator: The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may

designate one or more Deputy Title IX Coordinators. Any member of the University community may contact the Title IX Coordinator with questions.

- (b) Investigators: The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Coordinator shall supervise and advise the Title IX investigators when conducting investigations.

6.2 Assessment of Complaint.

The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

- (a) With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and
- (b) When both parties are categorically similar (i.e. employee/employee or student/student).

6.3 Notification of University Offices Offering Assistance. After receiving a complaint, the Title IX Coordinator or Deputy Coordinator shall forward the complainant to the Director of Title IX Compliance to conduct the investigation or assign to another qualified investigator.

6.4 Informal Resolution of Certain Sexual Harassment Complaints. (OPTIONAL)

A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he or she has been subject to sexual misconduct may immediately file a formal complaint as described in Section 3 of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Coordinator.

- (a) Informal Assistance. In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Coordinator or designee, then the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, directing a University official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, the University may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.
- (b) Timeframe. Informal resolutions should be completed no later than 10 business days after the Title IX Coordinator receives the request for informal resolution.

- (c) Confidentiality and Documentation. The University will document and record informal resolutions. The Title IX Coordinator will retain the documentation. If the individual's wish to remain anonymous limits the University's ability to establish facts and eliminate the potential harassment, the University will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

6.5 Formal Complaint and Investigation.

Formal Complaint.

To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint. A complaint form is attached at [APPENDIX B](#). The University may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all.

However, the complainant is strongly encouraged to file a written complaint by using the attached compliant form at [APPENDIX B](#). If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. The University office receiving the complaint should refer the complaint to the Title IX Coordinator.

Investigation.

- (a) An investigator will be assigned to investigate the complaint.
- (b) As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.
- (c) The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
- (d) Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.

- (e) The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator or his/her supervisor. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- (f) After the investigation is complete, a written report² will be issued to the Title IX Coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a “preponderance of the evidence” standard).
- (g) After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at the university’s discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have 7 business days from the date of receipt (as indicated on the return receipt) to submit written comments regarding the investigation to the Title IX Coordinator.
- (h) Within 7 business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or his or her designee will: (1) request further investigation into the complaint; (2) dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or (3) find that the Policy was violated. A decision that the Policy was violated shall be based on the record.
- (i) If the Title IX Coordinator or his or her designee determines that the Policy was violated, he or she will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).
- (j) The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with section 6.5.G of this Policy.
- (k) The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

6.6 Standard of Proof. All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.

6.7 Timelines. Barring any unforeseen and reasonable delays, the University will endeavor to resolve complaints under this Policy no later than 60 calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60

² Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

calendar days, the University will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The University will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.

6.8 Remedies. In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- (a) Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
- (b) Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
- (c) Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
- (d) Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- (e) Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- (f) Determining whether sexual misconduct adversely affected the complainant's university standing;
- (g) Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;

- (h) Conducting, in conjunction with University leaders, a University climate check to assess the effectiveness of efforts to ensure that the University is free from sexual misconduct, and using that information to inform future proactive steps that the University will take;
- (i) Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
- (j) Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

6.9 Sanctions and Discipline. Disciplinary action against faculty and employees will be handled under the University's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. Further information regarding disciplinary actions are contained within the [Student Code of Conduct](#).

If a student is found responsible based upon the preponderance of the evidence (more likely to have occurred than not) for a violation as defined herein, the University may impose disciplinary sanctions including, but not limited to:

- (a) **Expulsion.** Permanent separation of the student from the University. The student is restricted from enrolling at any other UT System institution without prior consent from the chief student affairs officer at that institution.
- (b) **Suspension.** Suspension from the University is for a specified amount of time and prohibits, during the period of suspension, the student from entering campus, except in response to an official request. The student must comply with all conditions imposed prior to reenrollment. Further, the student is restricted from enrolling at any other UT System institution during the term of the suspension without prior consent from the chief student affairs officer at that institution.

- (c) **Deferred expulsion/suspension.** Expulsion/Suspension will be postponed, but will be automatic if the student commits any additional rule violations while on deferred suspension.
- (d) **Disciplinary probation.** Disciplinary probation identifies a specified period of time during which the student is required to comply with terms and conditions that include not engaging in further conduct in violation of this policy. Any conduct in violation of these regulations while in a probationary status may result in the imposition of a sanction of suspension or expulsion.
- (e) **Educational sanction.** An educational sanction may include the requirement to complete or attend educational activities, programs, or presentations, or any other learning experience deemed appropriate.
- (f) **Developmental probation.** Requires a student to satisfy conditions related to the violation, such as counseling, educational seminars, or periodic meetings with a designated University official. This may be effective in providing educational opportunities for the student to participate in discussions that will explore alternative behaviors.

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the “preponderance of the evidence,” as defined in this policy.

Sec. 7. Provisions Applicable to the Investigation.

- 7.1 **Assistance.** During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.
- 7.2 **Time Limitations.** Time limitations in these procedures may be modified by the Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University.
- 7.3 **Concurrent Criminal or Civil Proceedings.** The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The University has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Sec. 6.7).

7.4 **Documentation.** The University shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and University policy.

Sec 8. Dissemination of Policy and Educational Programs.

8.1 This Policy will be made available to all University administrators, faculty, staff, and students online at www.utdallas.edu/oiec and in University publications. Periodic notices will be sent to University administrators, faculty, staff and students about the University's Sexual Harassment/Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.

8.2 Ongoing Sexual Misconduct Training. The University's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. The University will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise University administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal complaint.

8.3 Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, Investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to sexual misconduct.

Sec. 9. Additional Conduct Violations.

9.1 Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.

9.2 False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding of non-responsibility does not indicate a report was false.

9.3 Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:

- (a) Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- (b) Removing, destroying, or altering documentation relevant to the investigation; or
- (c) Providing false or misleading information to the investigator, or encouraging others to do so.

9.4 No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated University rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a University employee. Nothing in this section shall limit the University's ability to take interim action.

Sec. 10 Documentation.

The University shall confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator will document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

Sec. 11 Annual Reporting and Notice.

The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual

basis, and upon any updates to this Policy, the University will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related University websites.

Definitions and Examples³

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.⁴

³ The definitions provided in the main body of the text are the definitions adopted by the University. When applicable, we have included the state law definition. In any criminal action brought by law enforcement, the state law definition will apply.

⁴ Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

Dating Violence⁵ – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- (a) The length of the relationship;
- (b) The type of relationship; and
- (c) The frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violence⁶ – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with

⁵ Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship
- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

⁶ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001\(1\)\(C\)](#), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#)

whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and University visitors).

In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including:

- the type, frequency, and duration of the conduct
- the identity and relationships of the persons involved
- the number of individuals involved
- the location of the conduct and the context in which it occurred
- the degree to which the conduct affected an individual's education or employment

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

Incapacitation – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Intimidation – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Responsible Employee – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.2. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.

Retaliation – Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

Sexual Assault⁷ – An offense that meets the definition of rape, fondling, incest, or statutory rape:

- (a) *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- (b) *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- (c) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (d) *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

Sexual Harassment– Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in University activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in

⁷ Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

University activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

- (a) Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- (b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - unwelcome intentional touching; or
 - deliberate physical interference with or restriction of movement
- (c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - explicit or implicit propositions to engage in sexual activity;
 - gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - gratuitous remarks about sexual activities or speculation about sexual experiences;
 - persistent, unwanted sexual or romantic attention;
 - subtle or overt pressure for sexual favors;
 - exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - deliberate, repeated humiliation or intimidation based upon sex

Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence – Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking⁸ – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:

- (a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- (c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

⁸ Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended

APPENDIX A.

Relevant Federal and State Statutes, and Standards

- [Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106](#)
- [Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11.](#)
- [Clery Act, 20 U.S.C 1092\(f\) and its implementing regulations](#) 34 C.F.R. Part 668
- [FERPA Regulations, 34 C.F.R. Part 99](#)

Other Relevant Policies, Procedures, and Forms

- [Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships](#)
- [UT System Administration System wide Policy \(UTS 184\), Consensual Relationships](#)
- [University's Sex Discrimination Policy](#)
- [Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member](#)
- [Student Code of Conduct](#)
- [Non-Discrimination Policy](#)
- [Discipline Dismissal and Grievances](#)

System Administration Office(s) Responsible for Policy

- Office of General Counsel

Dates Approved or Amended

- April 6, 2015
- February 21, 2012

Contact Information


- Questions or comments about this Policy should be directed to: Title IX Coordinator 972-883-2292 (AVP Institutional Equity and Compliance and Title IX Coordinator), to report an incident of sexual misconduct, harassment or sexual violence.

Victim Resources

1. Immediate Assistance :
 - UT Dallas Police - <http://utdallas.edu/police>
 - Dean of Students - 972-883-6391, To report an incident of sexual misconduct, harassment or sexual violence
 - Student Counseling Center, During normal business hours: 972-883-2575, After hours: 972-UTD-TALK (972-883-8255), to make a confidential report of sexual misconduct
Individual and group counseling

- Student Health Center 972-883-2747, to report an incident of sexual misconduct, Educational and prevention information, Testing for sexually transmitted diseases after an assault
 - Women's Center -972-883-6555
 - Student Wellness Center 972-883-4275, Education and prevention information
 - Residential Life- 972-883-5361, To report an incident of sexual misconduct, Peer Adviser training on issues related to sexual assault, On-site educational programs, Individual and groups support follow-up
2. Other resources are available:
- Rape, Abuse & Incest National Network (RAINN) –<https://www.rainn.org/public-policy/campus-safety>
 - Dallas Area Rape Crisis Center – <http://www.dallasrapecrisis.org/what-we-do/get-info/effects-of-sexual-assault/>
 - IGNITE Texas- www.ignitetx.org
3. Dallas Area Resources:
- Dallas Area Rape Crisis - 972-641-7273, 24 hour hotline
 - The Turning Point - 800-886-RAPE, 24 hour hotline in Collin County
 - Brighter Tomorrows- 972-262-8383, Survivors of domestic and sexual violence
 - Chetna- 866-410-5565, Domestic violence (Asian community)
 - Texas Department of Family and Protective Services - 800-252-5400, Elderly, child, and disabled adult abuse
 - Genesis Counseling Associates- 214-350-2223
4. Domestic violence:
- Genesis Women's' Shelter & Support, 214-946-HELP, Domestic violence
 - Hope's Door - 972-422-7233, Domestic violence
 - The Hotline - 800-799-7233, 24 hour hotline

APPENDIX B.



OFFICE OF INSTITUTIONAL EQUITY & COMPLIANCE INCIDENT REPORT FORM

The Office of Institutional Equity and Compliance handles student, employee, and visitor reports of discrimination and harassment based on age, color, disability, genetic information, national origin, race, religion, sex (including pregnancy) veteran status, sexual orientation, gender identity and gender expression. This includes reports of sexual misconduct, including sexual harassment and sexual violence. Our office also handles reports of relationship violence and stalking.

Once you submit this form, you may be contacted by someone from the Office of Institutional Equity and Compliance (OIEC) if additional information is needed. Regardless of the nature of your report, the University will ensure that your report is forwarded to the office with responsibility for investigating and addressing, as appropriate, based on the information you have provided.

**IF THERE IS IMMEDIATE RISK TO LIFE, SAFETY, OR PROPERTY, PLEASE CALL 911
or you may call CAMPUS POLICE AT (972)883-2222**

CONTACT INFORMATION Today's Date _____

Your Name: _____

Faculty Staff Student Other (Please Explain): _____

Employee or Student ID# (if applicable): _____ Preferred Method of Contact: Phone Email

Preferred Phone#: _____ Preferred Email: _____

Home Address: _____

Campus Address: _____

Department Name (Employees only): _____

PERSONS INVOLVED

Please use this section to list the names of the parties involved as well as any witnesses, etc. Enter as much information as possible. If you have included your name above, it is not necessary to add it to this section.

| Name of Person or Organization | Role | Email/Phone# |
|--------------------------------|------|--------------|
| | | |
| | | |
| | | |
| | | |

REPORT DETAILS

Nature of this Report (check all that apply):

Discrimination Retaliation Other: _____

Harassment Sexual Misconduct,
(including Sexual Harassment and Sexual Violence)

Relationship Violence Stalking

v. 2.7.15

Do you feel this happened because of (check all that apply):

| | | |
|--|---|--|
| <input type="checkbox"/> Age | <input type="checkbox"/> National Origin | <input type="checkbox"/> Color |
| <input type="checkbox"/> Race | <input type="checkbox"/> Religion | <input type="checkbox"/> Sex (including pregnancy) |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Veteran Status |
| <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Gender Expression | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Other | <input type="checkbox"/> Not Applicable | |

Comment: _____

INCIDENT DETAILS

Date of incident: _____ Time of incident: _____

Specific Location of incident: _____

Have you notified anyone else or any other campus or non-campus unit about this incident? If yes, who did you notify:

Please provide as much detail as you are comfortable with concerning the incident. This narrative will be reviewed by the appropriate staff member at the Office of Institutional Equity and Compliance:

STATEMENTS OF NON-RETALIATION AND CONFIDENTIALITY

The University's Policy on Retaliation prohibits retaliation against an individual who in good faith files a report and/or participates in any investigation related to an allegation of prohibited harassment or discrimination. I understand that this Incident Report form, any correspondence, and all discussions pertaining to this complaint process are confidential to the extent permitted by law. By typing my initials below, I agree to abide by these guidelines.

Initial Here: _____ **Date:** _____

For further information, you may contact the UT Dallas Title IX Coordinator at TitleIXCoordinator@utdallas.edu or 972-883-2218.

v. 2.7.15

Section VI. Equal Opportunity

Chapter 3. Sexual Harassment and Sexual Misconduct

3.1 General Policy Statement.

3.1.1. The University of Texas at El Paso ("University") is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct is a form of sex discrimination and will not be tolerated. As stated in the definition, sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.

3.1.2. The University will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The University encourages any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified in Section 3.3.2.

3.2 Applicability.

This Policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

3.3 Filing a Complaint and Reporting Violations.

3.3.1 All Members of the University Community, Third Party and Anonymous Complaints. All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.

- a. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit the University's ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.
- b. Confidentiality. The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section 3.3.5.

- c. Timeliness of Complaint. Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.

3.3.2 Responsible Employees.

Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or Deputy Coordinators or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.3.5.¹ Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the [Title IX website www.utep.edu/eoaa](http://www.utep.edu/eoaa)

3.3.3 Reporting to Law Enforcement.

Complaints of sexual misconduct may also be made to The University of Texas at El Paso Police Department at 915.747.5611 (emergency and non-emergency), to the City of El Paso Police Department at 915.832.4400 (non-emergency) or 911 (emergency), or to other local law enforcement authorities. The Title IX Deputy Coordinators can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department.

If a complaint of sexual misconduct is reported to the University Police Department, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police Department shall also notify the Title IX Coordinator and Deputy Coordinators of the complaint, and provide the Title IX Coordinator and Deputy Coordinators or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

3.3.4 Reporting to Outside Entities.

An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810

¹ For example, a student may make a complaint to an employee in the Dean of Students' Office, a faculty member or university police. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report the complaint to the Title IX Coordinator or other appropriate designee.

Telephone: (214) 661-9600

Facsimile: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission

Dallas District Office

207 S. Houston Street, 3rd Floor

Dallas, TX 75202

Phone: 800.669.4000

FAX: 214.253.2720

3.3.5 Confidential Support and Resources.

Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in Counseling and Psychological Services, a health care provider in Health Services, the clergyperson of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator. The University and community resources that provide such services are:

UTEP University Counseling Center

Union West 202

<http://sa.utep.edu/counsel>

915.747.5302

UTEP Student Health Center

Union East 100

<http://chs.utep.edu/health>

915.747.5624

UTEP Employee Assistance Program

Deer Oaks

24 hours a day, 7 days a week

1.866.327.2400

3.3.6 Immunity.

In an effort to encourage reporting of sexual misconduct, the University may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this Policy.

3.3.7 Title IX Coordinator and Deputy Coordinators.

The Title IX Coordinator and Deputy Coordinators are:

Sandy Vasquez
Title IX Coordinator (Investigation of concerns related to Faculty and Staff)
Assistant Vice President for Equal Opportunity and Compliance Services
Ethics Officer
Kelly Hall, Room 302
915.747.5662
Email: svasquez@utep.edu

Dr. Ryan C. Holmes
Deputy Title IX Coordinator (Investigation of concerns related to Students)
Assistant Vice President for Student Support
Union East Room 303
915.747.8694
Email: rholmes@utep.edu

Dr. Catie McCorry-Andalis
Deputy Title IX Coordinator (Education, Training and Outreach)
Associate Vice President and Dean of Students
Union West 102
915.747.5648
Email: cmandalis@utep.edu

3.4. Parties' Rights Regarding Confidentiality.

The University has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

In the course of the investigation, the University may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. The University will take all reasonable steps to ensure there is no retaliation against a complainant. The University will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the University will also protect the privacy of all parties to a report of sexual misconduct.

3.5. Victim Resources.

3.5.1 Immediate Assistance.

Health Care:
UTEP Student Health Center
Union East Ste. 100
915.747.5624

Sierra Medical Center Emergency
1625 Sierra Medical Drive
915.747.4000

*Sierra Medical Center is the only hospital in El Paso County that performs sexual assault examinations.

Police:
UTEP Police Department
3118 Sun Bowl Drive
<http://admin.utep.edu/police>
915.747.5611
911 Emergency

El Paso Police Department
Crimes Against Persons
915.212.4000
Counseling:
Center Against Sexual and Family Violence
710 North Campbell Street
24/7 Crisis Hope Line
915.593.7300
800.727.0511

La Pinon Sexual Assault Recovery Services of Southern New Mexico
1.888.595.7273

Casa Amiga
Ciudad Juarez, Chihuahua Mexico
011656.6.90.83.00 or 011656.6.90.83.01

Ft. Bliss-Family Advocacy Program
915.568.9129
Domestic Violence Hotline (24/7)
915.269.2013

Sexual Assault Hotline
915.245.8991

National Domestic Violence Hotline
24 hours a day, 7 days a week
1.800.799.7233 (TTY)

National Sexual Assault Hotline
1.800.656.4673 (National)

3.5.1.1 Healthcare.

An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a

medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of Sierra Medical Center located at 1625 Sierra Medical Drive, 915.747.4000 or the nearest hospital that provides SAFE services. Sierra Medical Center is the only hospital in El Paso County that performs sexual assault examinations.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

3.5.1.2 Police Assistance.

The University encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on the University campus, a report may be filed with the UTEP Police Department by calling 915.747.5611 or in person at UTEP Police Department headquarters at 3118 Sun Bowl Drive (the building is located in the University's Facilities Services Complex), even if time has passed since the assault occurred.

UTEP Police Department can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a University disciplinary hearing. If the University police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by a police department counselor. A report may be filed with the University police even if the assailant was not a University student or employee. If the incident occurred in the City of El Paso, but off campus, a report may be filed with the El Paso Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

3.5.1.3 Counseling and Other Services.

A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

Medical care can be provided at Student Health Services (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by the University Counseling Center (students), Employee Assistance Program (employees), or a care provider of the individual's choosing.

Students desiring counseling should contact:
UTEP University Counseling Center
Union West 202
<http://sa.utep.edu/counsel>
915.747.5302

Faculty and staff should contact:
UTEP Employee Assistance Program
Deer Oaks
24 hours a day, 7 days a week
1.866.327.2400]

3.5.2 Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, the University will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the University may be able to provide additional accommodations for a complainant while an investigation is pending.

3.6 Intake Procedures and Protocol.

3.6.1 Key Officials in an Investigation.

3.6.1.1 Title IX Coordinator.

The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators.

Any member of the University community may contact the Title IX Coordinator with questions.

3.6.1.2 Investigators.

The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Deputy Coordinators shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary.

3.6.2 Assessment of Complaint.

The Title IX Coordinator or other appropriate designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

- a. With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and
- b. When both parties are categorically similar (i.e. employee/employee or student/student).

3.6.3 Notification of University Offices Offering Assistance.

After receiving a complaint, the Title IX Coordinator or Deputy Coordinator shall direct the complainant to the Dean of Students for students, or the Equal Opportunity Office for employees, to inform the complainant of available resources and assistance. While taking into consideration requested confidentiality, the Dean of Students for students and the Equal Opportunity Office may serve as a liaison between the complainant and the Title IX Coordinator during the investigation.

3.6.4 Informal Resolution of Certain Sexual Harassment Complaints.

A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he or she has been subject to sexual misconduct may immediately file a formal complaint as described in Section 3.3 of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Coordinator.

3.6.4.1 Informal Assistance.

In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Coordinator or other appropriate designee, then the individual will be provided assistance with informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, directing a University official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, the University may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.

3.6.4.2 Timeframe.

Informal resolutions should be completed no later than 10 business days after the Title IX Coordinator receives the request for informal resolution.

3.6.4.3 Confidentiality and Documentation.

The University will document and record informal resolutions. The Title IX Coordinator or Deputy Title IX Coordinator will retain the documentation. If the individual's wish is to

remain anonymous, this may limit the University's ability to establish facts and eliminate the potential harassment. The University will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

3.6.5 Formal Complaint and Investigation.

3.6.5.1 Formal Complaint.

To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint. The University may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. The University office receiving the complaint should refer the complaint to the Title IX Coordinator or Deputy Title IX Coordinator.

3.6.5.2 Investigation.

- a. An investigator will be assigned to investigate the complaint..

As part of the investigation process, the respondent will be provided notice of the complaint and allowed ten (10) working days to respond in writing, unless unusual circumstances warrant additional time.

- b. The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
- c. Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- d. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator or his/her supervisor. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- e. After the investigation is complete, a written report² will be issued to the Title IX Coordinator and the appropriate administrator. The appropriate

² Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a “preponderance of the evidence” standard).

- f. After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at the University’s discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have 7 business days from the date of receipt (as indicated on the return receipt) to submit written comments regarding the investigation to the Title IX Coordinator.
- g. Within 7 business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or his or her designee will: (1) request further investigation into the complaint; (2) dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or (3) find that the Policy was violated. A decision that the Policy was violated shall be based on the record.
- h. If the Title IX Coordinator or his or her designee determines that the Policy was violated, he or she will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).
- i. The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with section 3.6.5.2.g of this Policy.
- j. The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

3.6.6 Standard of Proof.

All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.

3.6.7 Timelines.

Barring any unforeseen and reasonable delays, the University will endeavor to resolve complaints under this Policy no later than 60 calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60 calendar days, the University will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The

University will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.

3.6.8 Remedies.

In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- a. Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
- b. Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
- c. Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
- d. Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- e. Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- f. Determining whether sexual misconduct adversely affected the complainant's University standing;
- g. Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
- h. Conducting, in conjunction with University leaders, a University climate check to assess the effectiveness of efforts to ensure that the University is free from sexual misconduct, and using that information to inform future proactive steps that the University will take;
- i. Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
- j. Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

3.6.9 Sanctions and Discipline.

Disciplinary action against faculty and employees will be handled under the University's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. The Dean of Students or Assistant Vice President for Student Support will impose disciplinary action, if any, against a student under the University's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

Discipline and Dismissal of Staff Employees, Section V, Chapter 6,
<http://admin.utep.edu/Default.aspx?tabid=30502>

Academic Policies and Faculty Personnel Matters, Section III, Chapter 4
<http://admin.utep.edu/Default.aspx?tabid=30381>

Student Conduct and Discipline, Section II, Chapter 1
<http://admin.utep.edu/Default.aspx?tabid=73922>

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the "preponderance of the evidence," as defined in this policy.

3.7. Provisions Applicable to the Investigation.

3.7.1 Assistance.

During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.

3.7.2 Time Limitations.

Time limitations in these procedures may be modified by the Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University.

3.7.3 Concurrent Criminal or Civil Proceedings.

The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The University has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Sec. 3.6.7).

3.7.4 Documentation. The University shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and University policy.

3.8. Dissemination of Policy and Educational Programs.

3.8.1 This Policy will be made available to all University administrators, faculty, staff, and students online at: <http://admin.utep.edu/Default.aspx?alias=admin.utep.edu/hoop> and in University publications. Periodic notices will be sent to University administrators, faculty, staff and students about the University's Sexual Harassment and Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.

3.8.2 Ongoing Sexual Misconduct Training.

The University's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. The University will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise University administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal complaint. EO Office, <http://admin.utep.edu/Default.aspx?tabid=3685>

3.8.3 Training of Coordinators, Investigators, Hearing and Appellate Authorities.

All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to sexual misconduct.

3.9. Additional Conduct Violations.

3.9.1 Retaliation.

Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.

3.9.2 False Complaints.

Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding of non-responsibility does not by itself indicate that a report was false.

3.9.3 Interference with an Investigation.

Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation includes, but is not limited to:

- a. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- b. Removing, destroying, or altering documentation relevant to the investigation; or
- c. Providing false or misleading information to the investigator, or encouraging others to do so.

3.9.4 No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint.

The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated University rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a University employee. Nothing in this section shall limit the University's ability to take interim action.

3.10 Documentation.

The University shall confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator or other appropriate designee will document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

3.11 Annual Reporting and Notice.

The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, the University will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related University websites.

3.12. Definitions and Examples³

3.12.1. Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual

³ The definitions provided in the main body of the text are the definitions adopted by the University. When applicable, we have included the state law definition. In any criminal action brought by law enforcement, the state law definition will apply.

activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.⁴

3.12.2 Dating Violence⁵ – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- a. The length of the relationship;
- b. The type of relationship; and
- c. The frequency of interaction between the persons involved in the relationship

⁴ Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

⁵ Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

3.12.3 Domestic (Family) Violence⁶ – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Texas.

3.12.4 Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and University visitors).

In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

⁶ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001](#)(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#).

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

3.12.5 Incapacitation – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

3.12.6 Intimidation – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

3.12.7 Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

3.12.8 Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

3.12.9 Responsible Employee – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.3.5. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.

3.12.10 Retaliation – Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

3.12.11 Sexual Assault⁷ – An offense that meets the definition of rape, fondling, incest, or statutory rape:

- a. *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b. *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

⁷ Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

- c. *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

3.12.12 Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

3.12.13 Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in University activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

- a. Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- b. Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. unwelcome intentional touching; or
 - ii. deliberate physical interference with or restriction of movement.
- c. Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - i. explicit or implicit propositions to engage in sexual activity;
 - ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. persistent, unwanted sexual or romantic attention;
 - v. subtle or overt pressure for sexual favors;
 - vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - vii. deliberate, repeated humiliation or intimidation based upon sex.

3.12.14 Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

3.12.15 Sexual Violence – Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

3.12.16 Stalking⁸ – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:

- a. *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- b. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- c. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

⁸ Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

The University of Texas of the Permian Basin Sexual Harassment/Sexual Misconduct Policy

1. Title

Sexual Harassment/Sexual Misconduct Policy

2. Policy

Sec. 1 General Policy Statement.

1.1 The University of Texas of the Permian Basin is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct is a form of sex discrimination and will not be tolerated. As stated in the definition, sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.

1.2 The University will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The University encourages any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified in Section 3.2.

Sec. 2 Applicability. This Policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

Sec. 3 Filing a Complaint and Reporting Violations.

3.1 All Members of the University Community, Third Party and Anonymous Complaints. All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.

a. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit the University's ability to stop the

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harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.

- b. Confidentiality. The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section 3.5.
- c. Timeliness of Complaint. Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.

3.2 Responsible Employees. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5.¹ Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the following website: <http://www.utpb.edu/campus-life/dean-of-students/sexual-harassment-sexual-assault-title-ix>.

3.3 Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas of the Permian Basin Police Department at 432-552-2786 (non-emergency) or 432-552-2911 (emergency), to the City of Odessa Police Department at 432-333-3641 (non-emergency) or 911 (emergency), to the City of Midland Police Department at 432-685-7108 (non-emergency) or 911 (emergency), or to other local law enforcement authorities. The Title IX Deputy Coordinators can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department.

If a complaint of sexual misconduct is reported to the University Police Department, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police Department shall also notify the Title IX

¹ For example, a student may make a complaint to an employee in the Dean of Students' Office, a faculty member or university police. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report the complaint to the Title IX Coordinator or other appropriate designee.

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Coordinator of the complaint, and provide the Title IX Coordinator or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

- 3.4 Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
Phone: (214) 661-9600
FAX: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202
Phone: (800) 669-4000
FAX: (214) 253-2720

- 3.5 Confidential Support and Resources. Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in Counseling and Psychological Services, a health care provider in Health Services, the clergyperson of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator. The University and community resources that provide such services are: UTPB Counseling Center, located at FB 061, phone number 432-552-2365.

- 3.6 Immunity. In an effort to encourage reporting of sexual misconduct, the University may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or

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participating in an investigation. This immunity does not extend to the person's own violations of this Policy.

3.7 Title IX Coordinator and Deputy Coordinators. The Title IX Coordinator and Deputy Coordinators are:

Title IX Coordinator: Narita Holmes, MB 4240A, 432-552-2697, holmes_n@utpb.edu, or TitleIXCoordinator@UTPB.edu.

Deputy Title IX Coordinator for Student Issues: Penney Nichols, MB 2120C, 432-552-4654, Nichols_p@utpb.edu.

Deputy Title IX Coordinator for Faculty/Staff Issues: Caron Perkins, MB 4224, 432-552-2750, perkins_c@utpb.edu.

Sec. 4. Parties' Rights Regarding Confidentiality. The University has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator. The coordinators may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

In the course of the investigation, the University may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. The University will take all reasonable steps to ensure there is no retaliation against a complainant. The University will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the University will also protect the privacy of all parties to a report of sexual misconduct.

Sec. 5. Victim Resources.

5.1 Immediate Assistance.

SANE (Sexual Assault Nurse Examiner) Exam location, contact Midland Memorial Hospital at 432-221-1111 for general information or ER service 432-221-1558.

Medical Center Hospital: General information 432-640-4000 or ER service 432-640-1190.

UTPB Counseling Center: 432-552-2365.

RAINN (Rape, Abuse and Incest National Network): Information and resources on sexual assault and sexual harassment www.rainn.org.

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- A. Healthcare. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of Midland Memorial Hospital or the nearest hospital that provides SAFE services.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

- B. Police Assistance. The University encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on the University campus, a report may be filed with the UTPB Police Department by calling 432-552-2786 or in person at the UTPB Police Department headquarters at MB 1103, even if time has passed since the assault occurred.

The UTPB Police Department can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a University disciplinary hearing. If the University police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by the police department. A report may be filed with the University police even if the assailant was not a University student or employee. If the incident occurred in the City of Odessa or Midland, but off campus, a report may be filed with the City of Odessa or Midland Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

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- C. Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

Medical care can be provided at University Health Services (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by the University Counseling Center (students), Employee Assistance (employees), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

Students desiring counseling should contact:

The UTPB Counseling Center, located at FB 061, phone number 432-552-2365.

Faculty and staff should contact:

The UTPB Counseling Center, located at FB 061, phone number 432-552-2365.

5.2 Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, the University will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the University may be able to provide additional accommodations for a complainant while an investigation is pending.

Sec. 6 Intake Procedures and Protocol.

6.1 Key Officials in an Investigation.

- A. Title IX Coordinator. The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and

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provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators.

Any member of the University community may contact the Title IX Coordinator with questions.

- B. Investigators. The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Deputy Coordinators shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary.

6.2 Assessment of Complaint.

The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

- A. With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and
- B. When both parties are categorically similar (i.e. employee/employee or student/student).

6.3 Notification of University Offices Offering Assistance. After receiving a complaint, the Title IX Coordinator shall direct the Deputy Title IX Coordinator for Student Issues for students or the Deputy Title IX Coordinator for Faculty/Staff Issues for employees to inform the complainant of available resources and assistance. While taking into consideration requested confidentiality, the Deputy Title IX Coordinator for Student Issues for students and Deputy Title IX Coordinator for Faculty/Staff Issues office may serve as a liaison between the complainant and the Title IX Coordinator during the investigation.

6.4 Informal Resolution of Certain Sexual Harassment Complaints. (OPTIONAL)

A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he or she has been subject to sexual misconduct may immediately file a formal complaint as described in Section 3 of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Coordinator.

- A. Informal Assistance. In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Coordinator or designee, then the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant

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with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, directing a University official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, the University may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.

- B. Timeframe. Informal resolutions should be completed no later than 10 business days after the Title IX Coordinator receives the request for informal resolution.
- C. Confidentiality and Documentation. The University will document and record informal resolutions. The Title IX Coordinator will retain the documentation. If the individual's wish to remain anonymous limits the University's ability to establish facts and eliminate the potential harassment, the University will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

6.5 Formal Complaint and Investigation.

Formal Complaint. To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint. The University may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. The University office receiving the complaint should refer the complaint to the Title IX Coordinator.

Investigation.

- A. An investigator will be assigned to investigate the complaint.
- B. As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.
- C. The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.

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- D. Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- E. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator or his/her supervisor. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- F. After the investigation is complete, a written report² will be issued to the Title IX Coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a “preponderance of the evidence” standard).
- G. After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at the university’s discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have 7 business days from the date of receipt (as indicated on the return receipt) to submit written comments regarding the investigation to the Title IX Coordinator.
- H. Within 7 business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or his or her designee will: (1) request further investigation into the complaint; (2) dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or (3) find that the Policy was violated. A decision that the Policy was violated shall be based on the record.
- I. If the Title IX Coordinator or his or her designee determines that the Policy was violated, he or she will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).
- J. The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with section 6.5.G of this Policy.

² Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

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K. The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

6.6 Standard of Proof. All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.

6.7 Timelines. Barring any unforeseen and reasonable delays, the University will endeavor to resolve complaints under this Policy no later than 60 calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60 calendar days, the University will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The University will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.

6.8 Remedies. In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- (a) Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
- (b) Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
- (c) Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
- (d) Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;

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- (e) Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- (f) Determining whether sexual misconduct adversely affected the complainant's university standing;
- (g) Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
- (h) Conducting, in conjunction with University leaders, a University climate check to assess the effectiveness of efforts to ensure that the University is free from sexual misconduct, and using that information to inform future proactive steps that the University will take;
- (i) Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
- (j) Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

6.9 Sanctions and Discipline. Disciplinary action against faculty and employees will be handled under the University's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. The Associate Dean of Students will impose disciplinary action, if any, against a student under the University's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

[Student Conduct and Discipline Policy](#)
[Discipline and Dismissal Policy and Procedures](#)

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the

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outcome will be the “preponderance of the evidence,” as defined in this policy.

Sec. 7. Provisions Applicable to the Investigation.

- 7.1 Assistance. During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.
- 7.2 Time Limitations. Time limitations in these procedures may be modified by the Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University.
- 7.3 Concurrent Criminal or Civil Proceedings. The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The University has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Sec. 6.7).
- 7.4 Documentation. The University shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and University policy.

Sec 8. Dissemination of Policy and Educational Programs.

- 8.1 This Policy will be made available to all University administrators, faculty, staff, and students online at http://www.utpb.edu/campus-life/dean-of-students/sexual-harassment-sexual-assault-http://www.utpb.edu/docs/default-source/utpb-docs/pdf/hop/part_iii.pdf?sfvrsn=2 and in University publications. Periodic notices will be sent to University administrators, faculty, staff and students about the University’s Sexual Harassment/Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.
- 8.2 Ongoing Sexual Misconduct Training. The University’s commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. The University will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise University administrators, faculty, staff, and students of their rights to file a complaint

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under this Policy and their right to file a criminal complaint. [\[Link to web page with training provided\]](#)

8.3 Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to sexual misconduct.

Sec. 9. Additional Conduct Violations.

9.1 Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.

9.2 False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding of non-responsibility does not indicate a report was false.

9.3 Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:

- (a) Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- (b) Removing, destroying, or altering documentation relevant to the investigation; or
- (c) Providing false or misleading information to the investigator, or encouraging others to do so.

9.4 No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated University rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a University employee. Nothing in this section shall limit the University's ability to take interim action.

Sec. 10 Documentation. The University shall confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator will

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document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

Sec. 11 Annual Reporting and Notice. The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, the University will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related University websites.

3. Definitions and Examples³

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.⁴

³ The definitions provided in the main body of the text are the definitions adopted by the University. When applicable, we have included the state law definition. In any criminal action brought by law enforcement, the state law definition will apply.

⁴ Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or

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Dating Violence⁵ – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violence⁶ – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

⁵ Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

⁶ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001\(1\)\(C\)](#), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#).

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

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Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and University visitors).

In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

Incapacitation – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Intimidation – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

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Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Responsible Employee – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.

Retaliation – Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

Sexual Assault⁷ – An offense that meets the definition of rape, fondling, incest, or statutory rape:

- a) *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b) *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- c) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d) *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity,

⁷ Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

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letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in University activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

- a) Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. unwelcome intentional touching; or
 - ii. deliberate physical interference with or restriction of movement.
- c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - i. explicit or implicit propositions to engage in sexual activity;
 - ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. persistent, unwanted sexual or romantic attention;
 - v. subtle or overt pressure for sexual favors;
 - vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - vii. deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence – Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

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Stalking⁸ – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition--

- a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

4. Relevant Federal and State Statutes, and Standards

[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11.](#)

[Clery Act, 20 U.S.C 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

[FERPA Regulations, 34 C.F.R. Part 99](#)

5. Other Relevant Policies, Procedures, and Forms

⁸ Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

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[Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships](#)

[University of Texas System Administration Systemwide Policy \(UTS 184\), Consensual Relationships](#)

[University's Sex Discrimination Policy](#)

[Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member](#)

[Staff Discipline policy](#)

[Student Discipline policy](#)

6. System Administration Office(s) Responsible for Policy

Office of General Counsel

7. Dates Approved or Amended

April 6, 2015

February 21, 2012

8. Contact Information

Questions or comments about this Policy should be directed to:

- ogc_intake@utsystem.edu

ADM 3-300 SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

A. Purpose

The University of Texas Rio Grande Valley (UTRGV) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SAVE Act).

B. Policy

UTRGV prohibits discrimination on the basis of sex in its educational programs or activities and in employment. Sexual misconduct (which includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and dating violence) is a form of sex discrimination and will not be tolerated. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action. UTRGV will take prompt disciplinary action against any individuals or organizations within its control who violate this policy. UTRGV encourages any student, faculty, staff or visitor to promptly report violations of this policy to an individual identified in Section E.1.

C. Persons Affected

This policy applies to all UTRGV administrators, faculty, staff, students, and third parties within UTRGV's control, including visitors and applicants for employment. The policy applies to conduct regardless of where it occurs, including off UTRGV property, if it potentially affects the complainant's education or employment with UTRGV. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

D. Definitions and Examples¹

1. Consent – Knowing and voluntary words or actions clearly expressing mutually understandable permission to engage in each instance of sexual activity. Silence, in and of itself, cannot be interpreted as consent. Consent to one sexual act does not necessarily imply consent to another. Past consent to sexual acts or activity does not necessarily imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time through either words or actions, as long as that withdrawal is clearly communicated. Any expression of an unwillingness to engage in any instance of sexual activity, whether through words or actions, establishes a presumptive lack of consent. In order to give consent, one must be of legal age to consent under Texas law.

¹ The definitions provided in the main body of the text are the definitions adopted by UTRGV. When applicable, the state law definition has been included. In any criminal action brought by law enforcement, the state law definition will apply.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.001(b) of the Texas Penal Code.²

2. Dating Violence³ – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

3. Domestic (Family) Violence⁴ – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim

² Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

³ Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

⁴ Family Violence is defined by the Texas Family Code Section 71.004 as:

shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

4. Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from UTRGV's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a UTRGV program or activity (e.g., administrators, faculty members, employees, students, and UTRGV visitors).

In determining whether sex-based harassment has created a hostile environment, UTRGV considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, UTRGV must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, UTRGV considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

This policy does not impair the exercise of rights protected under the First Amendment. UTRGV's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, UTRGV applies and enforces this policy in a manner that respects the First Amendment rights of students, faculty, and others.

5. Incapacitation – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

-
- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001\(1\)\(C\)](#), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#).

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

6. Intimidation – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
7. Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.
8. Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this policy. This standard is satisfied if the action is deemed more likely to have occurred than not.
9. Responsible Employee – A UTRGV employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any individual who works or volunteers in the Office of Victim Advocacy and Violence Prevention and employee with confidentiality obligations as defined in Section E.1.e. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.
10. Retaliation – Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.
11. Sexual Assault⁵ – An offense that meets the definition of rape, fondling, incest, or statutory rape:
 - a) *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - b) *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
 - c) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d) *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

⁵ Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

12. Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.
13. Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in UTRGV activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in UTRGV activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in UTRGV activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:
- a) Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
 - b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. unwelcome intentional touching; or
 - ii. deliberate physical interference with or restriction of movement.
 - c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - i. explicit or implicit propositions to engage in sexual activity;
 - ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. persistent, unwanted sexual or romantic attention;
 - v. subtle or overt pressure for sexual favors;
 - vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - vii. deliberate, repeated humiliation or intimidation based upon sex.
14. Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

15. Sexual Violence – Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, or aggravated sexual assault.
16. Stalking⁶ – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:
 - a) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
 - b) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - c) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

E. Procedures

1. Filing a Complaint and Reporting Violations.

- a. All Members of the UTRGV Community, Third Party and Anonymous Complaints. All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.
 - i) Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit UTRGV’s ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the policy.

⁶ Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

- ii) Confidentiality. UTRGV has an obligation to maintain an environment free of sex discrimination, thus many UTRGV employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section E.1.e.
 - iii) Timeliness of Complaint. Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit UTRGV's ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating this policy.
- b. Responsible Employees. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a UTRGV employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except individuals who work or volunteer in the Office of Victim Advocacy and Violence Prevention or any employee with confidentiality obligations as defined in Section E.1.e.⁷ Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the following website: www.utrgv.edu/equity.
- c. Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas Rio Grande Valley Police Department at (956) 665-7151 or (956) 882-8232 (non-emergency) or 911 (emergency). City of Edinburg Police (956) 289-7700 or City of Brownsville Police (956) 548-7000 (non-emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Deputy Coordinators can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the UT Rio Grande Valley Police Department.

If a complaint of sexual misconduct is reported to the UT Rio Grande Valley Police Department, it shall advise the complainant of the right to file a complaint under this policy. To the extent allowed by law and UTRGV policy, the UT Rio Grande Valley Police Department shall also notify the Title IX Coordinator of the complaint, and provide the Title IX Coordinator or the individual investigating the complaint access to any related UTRGV law enforcement records, so long as doing so does not compromise any criminal investigation.

- d. Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

⁷ For example, a student may make a complaint to an employee in the Dean of Students' Office, a faculty member or university police. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report the complaint to the Title IX Coordinator or other appropriate designee.

Office of Civil Rights - U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202
Hotline: 1-800-421-3481
TDD#: 1-800-521-2172
Email: OCR@ed.gov
Web: <http://www2.ed.gov/ocr>

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission
San Antonio EEOC Field Office
Legacy Oaks, Building A
5410 Fredericksburg Road, Ste. 200
San Antonio, TX 78229
Phone: (800) 669-4000

- e. Confidential Support and Resources. Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), as well as certain non-professional counselors or advocates working in victim advocacy offices, are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. In addition, certain non-professional counselors or advocates working in sexual-assault victim advocacy offices are required to maintain the confidentiality of communications in the course of providing services and may not disclose those communications except with consent or as otherwise provided by law. Thus, students may discuss an incident with a counselor in Counseling and Psychological Services, a health care provider in Health Services, the clergyperson of the student's choice, an individual who works or volunteers in the Office of Victim Advocacy and Violence Prevention, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator. UTRGV and community resources that provide such services are:

Office of Victim Advocacy and Violence Prevention
UTRGV Edinburg Campus
Phone: (956) 665-8287
Email: OVAVP@utrgv.edu

Mujeres Unidas in Hidalgo County
511 Mustang Dr.
McAllen, TX 78501
Phone: (956) 630-4878 or (800) 580-4879
Fax: (956) 687-4715

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Friendship of Women
95 E Price Rd.
Brownsville, TX 78521
Phone: (956) 544-7412

Family Crisis Center in Rio Grande Valley
616 W. Taylor
Harlingen, TX 78550
Phone: (956) 423-9305

- f. Immunity. In an effort to encourage reporting of sexual misconduct, UTRGV may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this policy.
- g. Title IX Coordinator and Deputy Coordinators. The Title IX Coordinator and Deputy Coordinators are:

| Role | Name | Position Title | Dept. Location | Contact Info |
|--|-------------------|--|---|---|
| Title IX Coordinator: | Alicia G. Morley | Director, Office of Institutional Equity | Office of Legal Affairs SSBL 3.101 - Edinburg Campus | 956-665-2103 alicia.morley@utrgv.edu |
| Deputy Coordinator: Athletics | Farrah Manthei | Associate Athletic Director for Administration/SWA | Athletics HPE1 1.102 - Edinburg Campus | 956-665-2919 farrah.manthei@utrgv.edu |
| Deputy Coordinator: Staff & Faculty | Florence R. Nocar | Employee Relations Manager | Human Resources MASS 2.140 - Edinburg Campus | 956-665-3020 florence.nocar@utrgv.edu |
| Deputy Coordinator: Students | Douglas R. Stoves | Associate Dean for Student Rights and Responsibilities | Student Rights and Responsibilities Cortez Hall #204 – Brownsville Campus | 956- 882-7196 douglas.stoves@utrgv.edu |
| Assistant Deputy Coordinator: Students | David Marquez | Assistant Director for Student Rights and Responsibilities | Student Rights and Responsibilities Cortez Hall #211 – Brownsville Campus | 956-882-5034 david.marquez@utrgv.edu |

2. *Parties' Rights Regarding Confidentiality.*

UTRGV has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator or a Deputy Coordinator. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

In the course of the investigation, UTRGV may share information only as necessary with people who need to know to fulfill the purposes of this policy and applicable law, such as

investigators, witnesses, and the respondent. UTRGV will take all reasonable steps to ensure there is no retaliation against a complainant. UTRGV will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, UTRGV will also protect the privacy of all parties to a report of sexual misconduct.

3. *Victim Resources.*

a. *Immediate Assistance.*

UTRGV Counseling and Psychological Services
1201 West University Drive
University Center 109
Edinburg Campus
Phone: (956) 665-2574

UTRGV Counseling and Psychological Services
One West University Boulevard
Cortez Hall 237
Brownsville Campus
Phone: (956) 882-7641

UTRGV Employee Assistance Program
Phone: (800) 346-3549

Mission Regional Medical Center
900 S. Bryan Rd.
Mission, TX 78572
Phone: (956) 323-1111

Valley Baptist Medical Center
2222 Benwood St.
Harlingen, TX 78550
Phone: (956) 389-1100

The University of Texas at Rio Grande Valley Police Department
Phone: (956) 665-7151 Edinburg Campus
Phone: (956) 882-8232 Brownsville Campus

City of Edinburg Police Department
Phone: (956) 289-7700

City of Brownsville Police Department
Phone: (956) 548-7000

Emergency Phone: 911

- i) Healthcare. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of:

Mission Regional Medical Center
900 S. Bryan Rd.
Mission, Texas 78572
(956) 323-1111

Valley Baptist Medical Center
2222 Benwood St.
Harlingen, Texas 78550
(956) 389-1100

or to the nearest hospital that provides SAFE services.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

- ii) Police Assistance. UTRGV encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on a UTRGV campus, a report may be filed with The University of Texas at Rio Grande Valley Police Department at (956) 665-7151 or (956) 882-8232, even if time has passed since the assault occurred.

UTRGV can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a UTRGV disciplinary hearing. If the UT Rio Grande Valley Police Department is called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by a police department counselor. A report may be filed with the UT Rio Grande Valley Police Department even if the assailant was not a UTRGV student or employee. If the incident occurred in the City of Edinburg Police Department, please call (956) 289-7700 or City of Brownsville Police Department (956) 548-7000, but off campus, a report may be filed with that city's

Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

- iii) Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections or pregnancy even if the police are not contacted or if a SAFE is not performed.

Medical care can be provided at University Health Services (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by the University Counseling and Psychological Services (students), Employee Assistance (employees), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

Students desiring counseling should contact:

UTRGV Counseling and Psychological Services
University Center - 109
Edinburg Campus
Phone: (956) 665-2574

UTRGV Counseling and Psychological Services
One West University Boulevard
Cortez Hall 237
Brownsville Campus
Phone: (956) 882-7641

Faculty and staff should contact:
UTRGV Employee Assistance Program
Phone: (800) 346-3549

b. Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, UTRGV will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, UTRGV may be able to provide additional accommodations for a complainant while an investigation is pending.

4. *Intake Procedures and Protocol.*

a. *Key Officials in an Investigation.*

- i) Title IX Coordinator. The Title IX Coordinator is the senior UTRGV administrator who oversees UTRGV's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain UTRGV policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators.

Any member of the UTRGV community may contact the Title IX Coordinator with questions.

- ii) Investigators. The Title IX Coordinator will ensure that complaints are properly investigated under this policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Deputy Coordinators shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary.

b. *Assessment of Complaint.*

The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

- i) With a complaint solely of sexual harassment, not including sexual violence as defined in this policy; and
- ii) When both parties are categorically similar (i.e. employee/employee or student/student).

c. *Notification of University Offices Offering Assistance.*

After receiving a complaint, the Title IX Coordinator or Deputy Coordinator shall direct the Office of Victim Advocacy and Violence Protection to inform the complainant of available resources and assistance. While taking into consideration requested confidentiality, the Office of Victim Advocacy and Violence Prevention may serve as a liaison between the complainant and the Title IX Coordinator during the investigation.

d. *Formal Complaint and Investigation.*

Formal Complaint. To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the

conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint. UTRGV may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what the investigator understands the complaint to be and ask the complainant to verify that statement. The UTRGV office receiving the complaint should refer the complaint to the Title IX Coordinator.

Investigation.

- i)* An investigator will be assigned to investigate the complaint.
- ii)* As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.
- iii)* The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
- iv)* Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- v)* The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator or supervisor. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- vi)* After the investigation is complete, a written report⁸ will be issued to the Title IX Coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a “preponderance of the evidence” standard).
- vii)* After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at UTRGV’s discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have seven (7) business days from the date of receipt (as indicated on the return receipt) to submit written comments regarding the investigation to the Title IX Coordinator.
- viii)* Within seven (7) business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or designee will: (1) request further investigation into the complaint; (2) dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or (3) find that the

⁸ Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

policy was violated. A decision that the policy was violated shall be based on the record.

- ix) If the Title IX Coordinator or designee determines that the policy was violated, the Title IX Coordinator or designee will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).
- ix) The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with this policy.
- x) The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

e. Standard of Proof.

All investigations under this policy will use the preponderance of the evidence standard to determine violations of this policy.

f. Timelines.

Barring any unforeseen and reasonable delays, UTRGV will endeavor to resolve complaints under this policy no later than 60 calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60 calendar days, UTRGV will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, UTRGV may defer its fact-gathering until after the initial stages of a criminal investigation. UTRGV will nevertheless communicate with the complainant regarding Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure the complainant's safety and well-being. UTRGV will also communicate with the respondent regarding Title IX rights, procedural options and information regarding the status of the investigation. UTRGV will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The filing of a complaint under this policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect UTRGV's investigation of the complaint.

g. Remedies.

In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, UTRGV will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- i) Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;

- ii) Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
- iii) Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
- iv) Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- v) Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- vi) Determining whether sexual misconduct adversely affected the complainant's standing at UTRGV;
- vii) Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
- viii) Conducting, in conjunction with UTRGV leaders, a UTRGV climate check to assess the effectiveness of efforts to ensure that UTRGV is free from sexual misconduct, and using that information to inform future proactive steps that UTRGV will take;
- ix) Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
- x) Issuing policy statements or taking other steps to clearly communicate that UTRGV does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of UTRGV's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

h. Sanctions and Discipline.

Disciplinary action against faculty and employees will be handled under UTRGV's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. The Dean of Students or designee will impose disciplinary action, if any, against a student under UTRGV's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion. See STU 02-100 Student Conduct and Discipline for additional information.

In accordance with federal law, when disciplinary action is commenced because of a violation of this policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the "preponderance of the evidence," as defined in this policy.

5. *Provisions Applicable to the Investigation.*

- a. Assistance. During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.
- b. Time Limitations. Time limitations in these procedures may be modified by the Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or UTRGV.
- c. Concurrent Criminal or Civil Proceedings. UTRGV will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. UTRGV has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Sec. E.4.g).
- d. Documentation. UTRGV shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and UTRGV policy.

6. *Dissemination of Policy and Educational Programs.*

- a. This Policy will be made available to all UTRGV administrators, faculty, staff, and students online and in UTRGV publications. Periodic notices will be sent to UTRGV administrators, faculty, staff and students about UTRGV's Sexual Harassment and Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about UTRGV disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this policy and with law enforcement and will refer individuals to designated offices or officials for additional information.
- b. Ongoing Sexual Misconduct Training. UTRGV's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, or trained UTRGV personnel. UTRGV will periodically educate and train employees and supervisors regarding the policy and conduct that could constitute a violation of the policy. Preventive education and training programs will be provided to UTRGV administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise UTRGV administrators, faculty, staff, and students of their rights to file a complaint under this policy and their right to file a criminal complaint.
- c. Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and UTRGV policies related to sexual misconduct.

7. *Additional Conduct Violations.*

- a. Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from UTRGV.
- b. False Complaints. Any person who knowingly and intentionally files a false complaint under this policy is subject to disciplinary action up to and including dismissal or separation from UTRGV. A finding of non-responsibility does not indicate a report was false.
- c. Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from UTRGV. Interference with an ongoing investigation may include, but is not limited to:
 - i) Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
 - ii) Removing, destroying, or altering documentation relevant to the investigation; or
 - iii) Providing false or misleading information to the investigator, or encouraging others to do so.
- d. No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated UTRGV rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a UTRGV employee. Nothing in this section shall limit UTRGV's ability to take interim action.

8. *Documentation.*

UTRGV shall confidentially maintain information related to complaints under this policy, as required by law. The Title IX Coordinator will document each complaint or request for assistance under this policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this policy is subject to disciplinary action.

9. *Annual Reporting and Notice.*

UTRGV's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this policy, UTRGV will send notice of its compliance with Title IX as

required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this policy, provide information regarding victim resources, and provide a link to this policy and other related UTRGV websites.

F. Relevant Federal and/or State Statute(s), Board of Regents' Rule(s), UTS Policy(ies), and/or Coordinating Board Rule(s)

[Title IX of the Education Amendments of 1972, 20 U.S.C. § 1618 et seq., and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex.](#)

[Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships](#)

[University of Texas System Administration Systemwide Policy \(UTS 184\), Consensual Relationships](#)

[Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member](#)

The University of Texas at San Antonio
Handbook of Operating Procedures
Chapter 9 – General Provisions

9.24 Sexual Harassment / Sexual Misconduct Policy

I. POLICY STATEMENT

The University of Texas at San Antonio is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act).

Sexual Misconduct is a form of sex discrimination and will not be tolerated. As stated in the definitions, sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.

The University will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The University encourages any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified as a Responsible Employee, as defined in Section VII.

II. RATIONALE

This policy is the principal prohibition of sexual harassment (including sexual violence), sexual misconduct, domestic violence, dating violence, and stalking regardless of where it occurs, including both on and off university property, if it potentially affects the alleged victim's education or employment.

III. SCOPE

This Policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

IV. WEBSITE ADDRESS FOR THIS POLICY

<http://www.utsa.edu/hop/chapter9/9-24.html>

V. RELATED STATUTES, POLICIES, REQUIREMENTS OR STANDARDS

UTSA or UT System Policies or the Board of Regents' Rules & Regulations

- A. UT System Board of Regents' Rule 30105, *Sexual Harassment, Sexual Misconduct, and Consensual Relationships*
- B. UT System Administration policy, UTS184, *Consensual Relationships*
- C. UTSA HOP policy 9.01, [Nondiscrimination](#)
- D. UT System Board of Regents' Rule 31008, *Termination of a Faculty Member*
- E. UTSA HOP policy 3.03, *Discipline and Dismissal of Personnel*
- F. [UTSA Student Discipline Policy](#)

Relevant Federal Statutes and Other Policies & Standards

- A. Title VII of the Civil Rights Act of 1964, [42 U.S.C. §§2000e-2000e-17 and its implementing regulations 29 C.F.R. §1604.11](#).
- B. [Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 and its implementing regulations, 34 C.F.R. Part 106](#)
- C. [Clery Act, 20 U.S.C 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)
- D. [FERPA Regulations, 34 C.F.R. Part 99](#)

VI. CONTACTS

If you have any questions about HOP policy 9.24 Sexual Harassment / Sexual Misconduct, contact the following office:

Leonard Flaum, Title IX Coordinator
Office of Equal Opportunity Services
LEONARD.FLAUM@UTSA.EDU
Phone: (210) 458-4120
<http://www.utsa.edu/eos>

VII. DEFINITIONS

Consent: A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.ⁱ

Dating Violenceⁱⁱ: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violenceⁱⁱⁱ – includes acts of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and University visitors).

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual Harassment policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

Incapacitation – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Intimidation – Placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

Preponderance of the Evidence: The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Responsible Employee: A University employee who has the duty to report incidents of Sexual Misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible Employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5.

Retaliation: Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

Sexual Assault^{iv}: An offense that meets the definition of rape, fondling, incest, or statutory rape:

- a) *Rape:* the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b) *Fondling:* The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- c) *Incest:* Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d) *Statutory Rape:* Sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being

exploited. Examples of sexual Exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities; such conduct creates a Hostile Environment. Sexual Harassment is a form of sex discrimination that includes:

- a) Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. unwelcome intentional touching; or
 - ii. deliberate physical interference with or restriction of movement.
- c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - i. explicit or implicit propositions to engage in sexual activity;
 - ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. persistent, unwanted sexual or romantic attention;
 - v. subtle or overt pressure for sexual favors;
 - vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - vii. deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct: A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to sexual assault, Sexual Violence, Sexual Exploitation, sexual Intimidation, Sexual Harassment, Domestic Violence, Dating Violence and Stalking. Sexual Misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence: Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking^v: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition--

- a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Title IX Coordinator: The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of Sexual Misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators.

UTSA's Title IX Coordinator and Deputy Coordinators are:

Leonard Flaum, Title IX Coordinator and Director of EOS
Esther Miller-Brown, Deputy Title IX Coordinator and Assistant Director EOS
Nina Sosa, Deputy Title IX Coordinator and Senior Equal Opportunity Investigator
Office of Equal Opportunity Services
North Paseo Building – NPB 5.130
Phone number: (210) 458-4120
EOS website: www.utsa.edu/eos

VIII. RESPONSIBILITIES

A. Applicants/Employees/Students/Visitors

1. Any person who believes that he or she has been subjected to Sexual Misconduct should immediately file a complaint with UTSA's Office of Equal Opportunity Services (the "EOS Office") and utilize the procedures set forth in this policy.
2. Individual(s) who witness or are aware of suspected incidents of Sexual Misconduct are strongly encouraged to immediately report the incident to the EOS Office.

B. Supervisor/Administrator/UTSA official

1. Every supervisor, administrator and UTSA official is responsible for promptly reporting to the EOS Office incidents of Sexual Misconduct that comes to their attention.

C. EOS Office

1. Determines what immediate and effective steps can be taken to end any Sexual Misconduct and protect the alleged victim. This includes taking interim steps during the investigation and any subsequent grievance or disciplinary process while protecting the rights of the accused individual. The EOS Office will coordinate with the appropriate administrative official to implement such steps.
2. Advises alleged victims of their right to file a complaint and/or to participate in the applicable student, faculty or staff discipline process. The EOS Office also must assess the best way to proceed in the event an alleged victim does not wish to file a complaint and/or participate in an investigation or subsequent disciplinary process so as to protect the alleged victim while also ensuring that UTSA maintains an environment free from prohibited discrimination and harassment.
3. Reviews and processes complaints of alleged Sexual Misconduct.
4. Consults with the UTSA Police Department (UTSAPD), as appropriate, in cases involving potential criminal conduct to determine if criminal authorities need to be notified.
5. Advises the alleged victim of the right to file a criminal complaint in cases involving potential criminal conduct.
6. Explains the resolution options available under the Informal and Formal processes, as outlined under Section IX of this policy, and proceeds accordingly.

D. The Title IX Coordinator. The **Director of Equal Opportunity Services** serves as UTSA's EEO Officer and Title IX Coordinator (see Section X below). The EEO Officer/Title IX Coordinator may be reached at 210-458-4120. The Title IX Coordinator

1. Investigates complaints of Sexual Misconduct.
2. Oversees Sexual Misconduct complaints and identifies and addresses any patterns or systemic problems.
3. Meets with students wanting to file complaints or seeking information.
4. Reviews cases brought before disciplinary committees to determine whether the complainant is entitled to a remedy under Title IX that was not available through the disciplinary process.
5. Ensures that periodic assessments are conducted of UTSA's sexual harassment programs, policies and procedures.

6. Ensures that UTSA has robust notice practices and education programs for students, faculty, and staff in accordance with Department of Education regulations and guidelines.

E. UTSA Police Department

1. Advises alleged victims of their right to file a Sexual Misconduct complaint under this policy.
2. Provides UTSA officials investigating Sexual Misconduct complaints access to any related UTSA law enforcement records as permitted by state and federal law and so long as it does not compromise any criminal investigation.

F. Student Counseling Services

1. Is available to all UTSA students, including victims of Sexual Harassment and intimate partner violence to provide such individuals with support and to advise them of their options under UTSA policy and procedures.

IX. PROCEDURES

A. Filing a Complaint and Reporting Violations

1. All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of Sexual Misconduct to the Office of Equal Opportunity Services (EOS)

Individuals shall not be penalized, disciplined, or prejudiced who in good faith report a violation of policy, procedure or law.

- a. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication to EOS; however, electing to remain anonymous may greatly limit the University's ability to stop the conduct, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.
- b. Confidentiality. The University has an obligation to maintain an environment free of sexual harassment and sexual violence, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section 5 below, "Confidential Support and Resources".

- c. **Timeliness of Complaint.** Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the conduct, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.
2. **Responsible Employees.** Incidents of Sexual Misconduct may also be reported to Responsible Employees. Responsible Employees who are made aware of incidents of Sexual Misconduct must immediately report those incidents to EOS. Responsible Employees can find contact information for EOS at the following website:
<https://www.utsa.edu/hop/chapter9/9-1.html>
3. **Reporting to Law Enforcement.** Complaints of Sexual Misconduct may also be made to The University of Texas at San Antonio Police Department (UTSAPD) at (210) 458-4242 (non-emergency) or 4911 (emergency on campus) or to other local law enforcement authorities 911 (emergency off campus). The UTSAPD can help individuals contact off campus law enforcement agencies if required or requested. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the UTSA Police Department.

If a complaint of Sexual Misconduct is reported to the UTSAPD, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the UTSAPD shall also notify EOS of the complaint, and provide EOS access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

4. **Reporting to Outside Entities.** An individual wishing to make a complaint of Sexual Misconduct may also contact the U.S. Department of Education, Office for Civil Rights (OCR):

Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
Telephone: (214) 661-9600
Facsimile: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202
Phone: (800) 669-4000
FAX: (214) 253-2720

Website: <http://www.eeoc.gov/employees/howtofile.cfm>

5. Confidential Support and Resources. Physical and mental health care professionals (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in Counseling Services or a health care provider in Health Services, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator or UTSAPD. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator or UTSAPD. The University and community resources that provide such services follow:

The UTSA Counseling Services: <http://www.utsa.edu/counsel/index.html>

Main Campus Location:

Rec Wellness Center - RWC 1.810

Phone: (210) 458-4140

Downtown Campus Location:

B.V. 1.308

Buena Vista Building

Phone: (210) 458-2930

The UTSA Student Health Services: <http://www.utsa.edu/health/>

Main Campus Location:

Recreation Wellness Center - RWC 1.500

Phone: (210) 458-4142

Downtown Campus Location:

Buena Vista Building (BV) 1.308

Phone: (210) 458-2930

Please refer to Off Campus Confidential Resource websites for information.

The Rape Crisis Center – San Antonio - <http://rapecrisis.com>

24-Hour Crisis Hotline: (210) 349-7273

7500 W US Hwy 90

San Antonio, TX 78227

Bexar County Family Justice Center: <http://www.bcfjc.org/contact.html>

Domestic Violence Assistance: <http://home.bexar.org/DA/DomesticViolence.html>

Protective Orders: <http://www.bcfjc.org/Legal.html>

General Office Phone: (210) 631-0100

Emergency: Dial 911

6. **Immunity.** In an effort to encourage reporting of Sexual Misconduct, the University may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this Policy.

B. Parties' Rights Regarding Confidentiality. The University has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with EOS. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality. In the course of the investigation, the University may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent.

1. **Retaliation.** The University will take all reasonable steps to ensure there is no retaliation against a complainant, respondent or any individuals engaged in this protected activity. An administrator, faculty member, student or employee who retaliates in any way against an individual who has brought a complaint pursuant to this policy or an individual who has participated in an investigation of such a complaint is subject to disciplinary action, including dismissal.
2. **Confidentiality for Student Records.** The University will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the University will also protect the privacy of all parties to a report of Sexual Misconduct.

C. Other Victim Resources

1. **Healthcare.** An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of Methodist Specialty and Transplant Hospital in San Antonio or the nearest hospital that provides SAFE services.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

Police Assistance. The University encourages individuals who have experienced sexual violence to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual violence occurred.

Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a University disciplinary hearing. If the University police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by the police department counselor. A report may be filed with the University police even if the perpetrator/respondent was not a University student or employee. If the incident occurred in the City of San Antonio but off campus, a report may be filed with the San Antonio Police Department (SAPD), even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report. UTSAPD can assist with providing information on how to file any protective orders. For further information, see the UTSAPD website: <http://www.utsa.edu/utsapd/>

Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care. even if he or she does not plan to request a SAFE or report the assault to the police. They may be prescribed medications to prevent sexually transmitted infections and/or pregnancy if they seek medical assistance.

Medical care can be provided at UTSA Health Services (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by UTSA's Counseling Services (students), or a referral through the Employee Assistance Program (employees), or a care provider of the individual's choosing.

2. Interim Measures and Ongoing Assistance. In addition to the services provided by on and off-campus providers, the University will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the

University may be able to provide additional accommodations for a complainant while an investigation is pending.

D. Intake Procedures and Protocol

1. Key Officials in an Investigation

a. Title IX Coordinator.

b. Investigators. The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained to conduct investigations that occur under this Policy. The Title IX Coordinator shall supervise and advise the Title IX investigators as necessary.

2. Assessment of Complaint. The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate: With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and when the complainant request an informal resolution or both parties are categorically similar (i.e. employee/employee or student/student).

3. Notification of University Offices Offering Assistance. After receiving a complaint, the Title IX Coordinator or Deputy Coordinators shall inform and provide the complainant contact information of available university resources and assistance. The Title IX Coordinator will take into consideration requested confidentiality.

4. Informal Resolution. A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for Sexual Assault or Sexual Violence cases. Anyone who believes that he or she has been subject to Sexual Misconduct may immediately file a formal complaint as described in Section IX.A of this Policy.

a. Informal Assistance. In certain complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Coordinator or Deputy Coordinators, the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, or directing a University official to inform the offending party to stop the unwelcomed conduct. However, the University may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment, violence or misconduct.

b. Timeframe. Informal resolutions should be completed no later than 30 calendar days after the Title IX Coordinator receives the request for informal resolution.

c. Confidentiality and Documentation. The Title IX Coordinator will document and record informal resolutions. The EOS office will retain the documentation. If the individual's wish to remain anonymous limits the

University's ability to establish facts and eliminate the potential harassment, the University will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

5. Formal Complaint and Investigation.

- a. Formal Complaint. To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint.

The University may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. If a complaint is received by an individual other than the Title IX Coordinators, the individual receiving the complaint should refer the complaint to the Title IX Coordinators.

b. Investigation.

- i. An investigator will be assigned to investigate the complaint.
 - 1) Within ten (10) work days of receipt of a complaint, the EOS investigator, as appropriate, may either dismiss the complaint or authorize an investigation of the complaint. A complaint may be dismissed if the facts alleged in the complaint, even if taken as true, do not constitute Sexual Misconduct; the complaint fails to allege any facts that suggest Sexual Misconduct occurred; or the appropriate resolution or remedy has already been achieved, or has been offered and rejected.
 - 2) If it is determined that a complaint will not be investigated, the EOS Office will contact the complainant and/or send the complainant a notification letter explaining the reason for the dismissal. The complainant has 15 (fifteen) work days of the notification to appeal the decision not to proceed with a complaint investigation to the Chief Legal Officer. The written appeal must explain why the decision to dismiss the complaint was in error. The Chief Legal Officer will respond within twenty (20) work days of receipt of the appeal. The Chief Legal Officer's decision is final. If the decision to dismiss is overturned, the complaint is sent back to the EOS Office for

investigation in accordance with the procedures outlined in this policy.

- ii. As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing as determined by the EOS office.
- iii. The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
- iv. Persons thought to have relevant information to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interviews and suggest questions that should be asked. Neither the complainant nor the respondent will attend these interviews or the gathering of the evidence.
- v. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 calendar days, a justification for the delay will be presented and reviewed by the Chief Legal Officer. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- vi. After the investigation is complete, a written report^{vi} will be issued to the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include a recommendation of whether a violation of the policy occurred, an analysis of the facts discovered during the investigation, any relevant evidence, recommended disciplinary action if a violation of the policy occurred, and any recommended remedial action (see a list of possible remedies for students at Appendix A.).
 - 1) Factual findings and a preliminary conclusion of whether a policy violation occurred shall be based upon a preponderance of the evidence standard. The EOS Office also may make recommendations to resolve any workplace issues it may discover during the investigation process regardless of whether Sexual Misconduct can be substantiated.
- vii. Notice to Employees: A copy of the report will be provided to the complainant, the respondent, and the vice president who has authority over the respondent. (The vice president may delegate responsibility for reviewing the EOS report and any submitted comments and taking the actions identified in (e) below.) The complainant and respondent have seven (7) work days from the date of the report to submit comments regarding the report to the appropriate vice president.

Notice to Students: In accordance with the Family Education Rights and Privacy Act (FERPA) and the Texas Education Code, Section 51.971, in complaints involving student-on-student conduct, neither

the complainant nor the respondent will receive a copy of the report. In keeping with FERPA and the Texas Education Code, Section 51.971, the student complainant and student respondent will be provided letters summarizing the findings and recommendations included in the report provided to the Dean of Students (DOS). The complainant and respondent will also be allowed to review the report. The complainant and respondent have seven (7) work days from the date of the report to submit comments regarding the report to the DOS. (Students can find additional information on the DOS review process in the Student Code of Conduct Sec. 801.)

- viii. Within ten (10) work days of receiving any comments submitted by the complainant or respondent, or, if no comments were submitted, within seven(7) work days of the date of the report, the appropriate vice president for staff who has authority over the respondent or the DOS for students will take one of the following actions:
 - 1) Notify both the complainant and respondent that a review is in progress;
 - 2) Request the EOS Office to do further investigation into the complaint;
 - 3) Dismiss the complaint if the results of the completed investigation are inconclusive or there is not a preponderance of the evidence (i.e., there is insufficient reasonable, credible evidence to support the allegations(s)); or
 - 4) Find that the policy was violated.
 - a) A decision that this policy was violated shall be made upon the record provided by the investigator and any comments submitted by the complainant or respondent; and shall be based on the totality of circumstances surrounding the conduct complained of, including but not limited to: the context of that conduct, its severity, frequency, whether it was physically threatening, humiliating, or was simply offensive in nature. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual.
 - b) If it is determined that the Policy was violated, the appropriate vice president for staff who has authority over the respondent or the DOS for students will refer the matter for disciplinary action under the applicable disciplinary policies and procedures. NOTE: Applicable disciplinary policies and procedures depend on the status of the respondent (i.e., student, faculty or employee).
- ix. Implementation of Disciplinary Action
 - 1) Staff and Faculty

- a) Implementation of disciplinary action against faculty and staff will be handled in accordance with UTSA's policy and procedures for discipline and dismissal of faculty and employees. Disciplinary actions can include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal.
 - b) Both the complainant and the respondent shall be afforded an opportunity to appeal any disciplinary action imposed by utilizing the established policies governing such appeals:
 - 1. Faculty: HOP policy 2.34, *Faculty Grievance Procedure*
 - 2. Staff: HOP policy 3.04, *Discipline and Dismissal of Personnel*, or HOP policy 3.04, *Grievances of Non-Faculty Employees*
- 2) Students
- a) Implementation of disciplinary action against students will be referred to the Office of Student Conduct and Community Standards for processing in accordance with the Student Code of Conduct. The Student Code of Conduct is located in the UTSA Information Bulletin at www.utsa.edu/infoguide. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.
 - b) Both the complainant and the respondent shall be afforded an opportunity to appeal any disciplinary action imposed by utilizing the established policies governing such appeals:
 - 1. Students: Student Code of Conduct Section 701, et seq.

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the "preponderance of the evidence," as defined in this policy.

- 6. Standard of Proof. All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.
- 7. Timelines. Barring any unforeseen and reasonable delays, the University will endeavor to resolve complaints under this Policy no later than 60 calendar days after the initial report was received by the Responsible Employee or the EOS office. Best efforts will be made to complete the process in a timely manner by balancing

principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The University will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.

8. Remedies. In addition to Disciplinary Sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), including but not limited to those below to resolve complaints of Sexual Misconduct, prevent any recurrence and, as appropriate, remedy any effects:
 - a. Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
 - b. Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
 - c. Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
 - d. Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
 - e. Determining whether Sexual Misconduct adversely affected the complainant's university standing;
 - f. Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
 - g. Conducting, in conjunction with University leaders, a University climate check to assess the effectiveness of efforts to ensure that the University is free from Sexual Misconduct, and using that information to inform future proactive steps that the University will take;
 - h. Providing targeted training for a group of students if, for example, the sexual harassment created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual harassment/violence prevention programs may be appropriate;
 - i. Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate Sexual Misconduct and will respond to any incidents and to an individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

E. Provisions Applicable to the Investigation

1. Assistance. During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in any meeting or interview.
2. Time Limitations. Time limitations in these procedures may be modified by the Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University.
3. Concurrent Criminal or Civil Proceedings. The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The University has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Section D.7).
4. Documentation. The University shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and University policy.

F. Dissemination of Policy and Educational Programs

1. The Policy will be made available to all University administrators, faculty, staff, and students online at [<https://www.utsa.edu/hop/chapter9/9-1.html>] and in University publications. Periodic notices will be sent to University administrators, faculty, staff and students about the University's Sexual Misconduct Policy. The notice will include information about Sexual Misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.
2. Ongoing Sexual Misconduct Training. The University's commitment to raising awareness of the dangers of Sexual Misconduct includes offering ongoing education through annual training of faculty, staff, mental health professionals, and students. The University will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on Sexual Misconduct policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise University administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal

complaint. [\[Link to web page with training provided \(Training and Development Link\)\]](#)

3. Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over Sexual Misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to Sexual Misconduct.

G. Additional Conduct Violations

1. Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.
2. False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding of non-responsibility does not indicate a report was false.
3. Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:
 - a. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information,
 - b. Removing, destroying, or altering documentation relevant to the investigation; or
 - c. Providing false or misleading information to the investigator, or encouraging others to do so.
4. No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including:
 - a. Any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated University rules or policies;
 - b. Any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or
 - c. Any job-related functions of a University employee. Nothing in the section shall limit the University's ability to take interim action.

H. Documentation

The University shall confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator will document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any

person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

I. Annual Reporting and Notice.

The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, the University will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related University websites.

X. SPECIAL INSTRUCTIONS FOR INITIAL IMPLEMENTATION

None (Update as needed)

XI. FORMS AND TOOLS/ONLINE PROCESSES

None (Update as needed)

ⁱ Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

ⁱⁱ Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

ⁱⁱⁱ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001\(1\)\(C\)](#), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#).

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

^{iv} Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

^v Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

^{vi} Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

2.4.3. Sexual Harassment Complaint, Investigation, and Grievance Procedures and Responsibilities

A. General Policy Statement and Policy Purpose.

1. The University of Texas at Tyler (the University) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct is a form of sex discrimination and will not be tolerated. As stated in the definition, sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.
2. The University will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The University encourages any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified in Section C.2.
3. The purpose of this policy is to set forth the procedures by which complaints or reports of sexual harassment and sexual misconduct will be resolved in a timely and equitable manner.

B. Applicability and Persons Affected.

1. This Policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

C. Filing a Complaint and Reporting Violations.

1. All Members of the University Community, Third Party and Anonymous Complaints. All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.
 - a. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit the University's ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.

- b. Confidentiality. The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section C.5.

- c. Timeliness of Complaint. Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.

2. Responsible Employees. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section C.5. Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the following website:
<http://www.uttyler.edu/titleix/index.php>

3. Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas at Tyler Police Department at 903-566-7300 (non-emergency) or 911 (emergency) or to the City of Tyler Police Department 903-531-1090 (non-emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Deputy Coordinators can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department.

If a complaint of sexual misconduct is reported to the University Police Department, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police Department shall also notify the Title IX Coordinator of the complaint, and provide the Title IX Coordinator or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

4. Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:
Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
Phone: (214) 661-9600
FAX: (214) 661-9587
5. Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination

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or sexual harassment:
U.S. Equal Employment Opportunity Commission
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202
Phone: (800) 669-4000
FAX: (214) 253-2720

6. Confidential Support and Resources. Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in Counseling and Psychological Services, a health care provider in Health Services, the clergyperson of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator. The University and community resources that provide such services are:
On-Campus Confidential Resources:
University Health Clinic
3310 Patriot Dr. Tyler TX 75701
Office Hours: 8 a.m. - 5 p.m.
903-939-7870

Student Counseling Center
UC Room 3170
Office Hours: 8 a.m. - 5 p.m.
903-566-7254

Off-Campus Confidential Resources:
East Texas Crisis Center
Smith County
Phone: 903-509-2526
24/7 Crisis Line 903-595-5591,
1-800-333-0358

24/7 Domestic Violence Hotlines
1-800-799-7233 (national) 1-800-787-3224
24/7 Sexual Assault Hotline 1-800-656-HOPE (national)

Texas Bar Lawyer Referral, Legal Aid
205 W. 9th Street, Suite 110
Austin, TX 78701
800.204.2222, Ext.2146 (Texas Bar)
512-476-7244 (Legal Aid)
-Free legal service
-Legal clinics; legal advice

Employee Assistance Program through UT System
1-800- 346-3549
<http://www.livingwell.utsystem.edu/eap.htm>

7. Immunity. In an effort to encourage reporting of sexual misconduct, the University may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This

immunity does not extend to the person's own violations of this Policy.

8. Title IX Officer, Coordinator and Deputy Coordinators. The Title IX Officer, Coordinator and Deputy Coordinators are:
Dr. Howard Patterson
Title IX Officer
VP for Student Affairs
Phone: 903-566-7350

Ben Carter
Title IX Coordinator
Office of Human Resources
Phone: 903-565-5968
Email: bcarter@uttyler.edu

Ona Tolliver
Deputy Title IX Coordinator
Assistant Vice President for
Student Affairs and Dean of Students
Phone: 903-565-5651
Email: OTolliver@uttyler.edu

Stefani Webb
Deputy Title IX Coordinator
Athletics
Phone: 903-565-5980
Email: swebb@uttyler.edu

D. Parties' Rights Regarding Confidentiality.

The University has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

In the course of the investigation, the University may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. The University will take all reasonable steps to ensure there is no retaliation against a complainant. The University will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the University will also protect the privacy of all parties to a report of sexual misconduct.

E. Victim Resources

1. Immediate Assistance.
 - a. Healthcare. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the

examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of ETMC Tyler, Mother Frances Hospital Tyler, or the nearest hospital that provides SAFE services.

For more information about the SAFE, see

<http://hopelaws.org/> or

<https://www.texasattorneygeneral.gov/victims/sapes.shtml#survivor>.

The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

- b. Police Assistance. The University encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on the University campus, a report may be filed with the UT Tyler Police Department by calling 903-566-7300 or in person at UT Tyler Police Department headquarters at 3410 Varsity Drive Tyler, TX 75799, even if time has passed since the assault occurred.

The UT Tyler Police Department can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a University disciplinary hearing. If the University police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by a police department counselor. A report may be filed with the University police even if the assailant was not a University student or employee. If the incident occurred in the City of Tyler, but off campus, a report may be filed with the Tyler Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

- c. Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

Medical care can be provided at University Health Services (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by the Student Counseling Center (students), Employee Assistance (employees), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

Students desiring counseling should contact:

The Student Counseling Center

UC Room 3170

Office Hours: 8 a.m. - 5 p.m.

903.566.7254

Faculty and staff should contact:

The Employee Assistance Program through UT System
1-800-346-3549

<http://www.livingwell.utsystem.edu/eap.htm>

2. Interim Measures and Ongoing Assistance. In addition to the services provided by on- and off-campus providers, the University will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the University may be able to provide additional accommodations for a complainant while an investigation is pending.

F. Intake Procedures and Protocol.

1. Key Officials in an Investigation.
 - a. Title IX Coordinator. The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators. Any member of the University community may contact the Title IX Coordinator with questions.
 - b. Investigators. The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Deputy Coordinators shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary.
2. Assessment of Complaint.

The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

- a. With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and
 - b. When both parties are categorically similar (i.e. employee/employee or student/student).
3. Notification of University Offices Offering Assistance. After receiving a complaint, the Title IX Coordinator or Deputy Coordinator shall direct Student Services for students or Human Resources for employees to inform the complainant of available resources and assistance. While taking into consideration requested confidentiality, Student Services for students and the Human Resources

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office may serve as a liaison between the complainant and the Title IX Coordinator during the investigation.

4. Informal Resolution of Certain Sexual Harassment Complaints.

A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he or she has been subject to sexual misconduct may immediately file a formal complaint as described in Section C of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Coordinator.

- a. Informal Assistance. In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Coordinator or designee, then the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, directing a University official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, the University may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.
- b. Timeframe. Informal resolutions should be completed no later than 10 business days after the Title IX Coordinator receives the request for informal resolution.
- c. Confidentiality and Documentation. The University will document and record informal resolutions. The Title IX Coordinator will retain the documentation. If the individual's wish to remain anonymous limits the University's ability to establish facts and eliminate the potential harassment, the University will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

5. Formal Complaint and Investigation.

Formal Complaint. To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint. The University may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. The University office receiving the complaint should refer the complaint to the Title IX Coordinator.

Investigation.

- a. An investigator will be assigned to investigate the complaint.

- b. As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.
- c. The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
- d. Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- e. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator or his/her supervisor. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- f. After the investigation is complete, a written report will be issued to the Title IX Coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a "preponderance of the evidence" standard).
- g. After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at the university's discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have 7 business days from the date of receipt (as indicated on the return receipt) to submit written comments regarding the investigation to the Title IX Coordinator.
- h. Within 7 business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or his or her designee will: (1) request further investigation into the complaint; (2) dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or (3) find that the Policy was violated. A decision that the Policy was violated shall be based on the record.
- i. If the Title IX Coordinator or his or her designee determines that the Policy was violated, he or she will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).
- j. The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with section F.5.g of this Policy.
- k. The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

6. Standard of Proof. All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.
7. Timelines. Barring any unforeseen and reasonable delays, the University will endeavor to resolve complaints under this Policy no later than 60 calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60 calendar days, the University will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The University will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time. The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.

8. Remedies. In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:
 - a. Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
 - b. Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
 - c. Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
 - d. Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
 - e. Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
 - f. Determining whether sexual misconduct adversely affected the complainant's university standing;
 - g. Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
 - h. Conducting, in conjunction with University leaders, a University climate check to assess the effectiveness of efforts to ensure that the University is free from sexual misconduct, and using that information to inform future proactive steps that the University will take;

- i. Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
- j. Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

9. Sanctions and Discipline. Disciplinary action against faculty and employees will be handled under the University's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. The Dean of Students will impose disciplinary action, if any, against a student under the University's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

HOP Policy 4.16.4 Discipline and Dismissal of Classified Employees

HOP Policy 3.1.11 Termination of Employment of a Faculty Member
Manual of Policies and Procedures for Student Affairs, Chapter 8, Student Conduct and Discipline

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the "preponderance of the evidence," as defined in this policy.

G. Provisions Applicable to the Investigation.

1. Assistance. During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.
2. Time Limitations. Time limitations in these procedures may be modified by the Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University.
3. Concurrent Criminal or Civil Proceedings. The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The University has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Sec. F.7).
4. Documentation. The University shall document complaints and their resolution and retain copies of all materials in

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accordance with state and federal records laws and University policy.

H. Dissemination of Policy and Educational Programs.

1. This Policy will be made available to all University administrators, faculty, staff, and students online at <http://www.uttyler.edu/ohr/hop/> and in University publications. Periodic notices will be sent to University administrators, faculty, staff and students about the University's Sexual Harassment/Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.
2. Ongoing Sexual Misconduct Training. The University's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. The University will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise University administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal complaint. <http://www.uttyler.edu/compliance/training.php>
3. Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to sexual misconduct.

I. Additional Conduct Violations.

1. Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.
2. False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding of non-responsibility does not indicate a report was false.
3. Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:

- a. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
 - b. Removing, destroying, or altering documentation relevant to the investigation; or
 - c. Providing false or misleading information to the investigator, or encouraging others to do so.
4. No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated University rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a University employee. Nothing in this section shall limit the University's ability to take interim action.

J. Documentation.

The University shall confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator will document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

K. Annual Reporting and Notice.

The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, the University will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related University websites.

L. Definitions and Examples.

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.

Dating Violence – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- a. The length of the relationship;
- b. The type of relationship; and
- c. The frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violence – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and University visitors).

In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

Incapacitation – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Intimidation – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Responsible Employee – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section C.5. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.

Retaliation – Any adverse action threatened or taken against someone because the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

Sexual Assault – An offense that meets the definition of rape, fondling, incest, or statutory rape:

- a. Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

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b. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

d. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in University activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

a. Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.

b. Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:

- i. unwelcome intentional touching; or
- ii. deliberate physical interference with or restriction of movement.

c. Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:

- i. explicit or implicit propositions to engage in sexual activity;
- ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;

iii. gratuitous remarks about sexual activities or speculation about sexual experiences;

iv. persistent, unwanted sexual or romantic attention;

v. subtle or overt pressure for sexual favors;

vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or

vii. deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence – Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition—

a. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

M. Relevant Federal and State Statutes, and Standards.

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106

Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11.

Clergy Act, 20 U.S.C 1092(f) and its implementing regulations 34 C.F.R. Part 668

FERPA Regulations, 34 C.F.R. Part 99

N. Other Relevant Policies, Procedures, and Forms.

Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships

University of Texas System Administration Systemwide Policy (UTS 184), Consensual Relationships

Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member

HOP Policy 4.16.4 Discipline and Dismissal of Classified Employees

Manual of Policies and Procedures for Student Affairs, Chapter 8, Student Conduct and Discipline

This policy shall be reviewed by the Director of Human Resources every five years or as Legislation changes.
Date Amended: October 19, 2015

O. Responsibility for Implementing this Policy.

1. The Title IX Officer oversees UT Tyler compliance efforts with regard to Title IX of the Education Amendments of 1972 and advises the President and Executive level leadership on the current climate of Title IX . This individual provides leadership and consultation for Title IX initiatives across UT Tyler and builds partnerships to facilitate a broad program. Further, this individual supervises the Title IX Coordinator to oversee UT Tyler's response and investigation of alleged violations of Title IX.
2. For complaints or reports alleging that University students or applicants for admission engaged in sexual harassment, Title IX Coordinator is charged with implementing this policy. For complaints alleging that faculty, staff, or other employees engaged in sexual harassment or sexual misconduct the Title Coordinator is charged with implementing this policy.
3. Title IX Coordinator is responsible for determining what immediate and effective steps can be taken to end any sexual harassment and protect the alleged victim. This includes taking interim steps during any grievance or disciplinary process while protecting the rights of the accused individual.
4. The Title IX Coordinator is responsible for advising alleged victims of their right to file a complaint with the appropriate student, faculty, or staff discipline process. Title IX Coordinator must also decide if a case should be referred to the appropriate discipline process if the alleged victim does not wish to file such a complaint.
5. In cases involving potential criminal conduct, the Title IX Coordinator shall determine, in consultation with University police, if criminal authorities need to be notified and must advise the alleged victim of their right to file a criminal complaint.
6. The Title IX Coordinator shall explain the options available under informal (Section F.4 above) and formal (Section F.5 above) processes.
7. Police Office Responsibilities:
 - a. In cases where an incident is reported to University police, the police must advise the alleged victims of their right to file a sexual harassment complaint under this policy.
 - b. University police shall provide University officials investigating sexual harassment complaints access to any related University law enforcement records as permitted by state and federal law and so long as it does not compromise any criminal investigation.

P. Review.

23. Contract (funds coming in) - U. T. Arlington: Sodexo Services of Texas Limited Partnership to provide concession operations and catering services

Agency: Sodexo Services of Texas Limited Partnership

Funds: Commissions or revenue expected to exceed \$1,000,000 over the contract period

Period: September 2, 2015 through September 1, 2022, with option to extend the term from year to year for a period of three years

Description: Sodexo Services of Texas Limited Partnership will provide full-service food, alcoholic beverage, and nonalcoholic beverage services for all concession operations campus-wide and catering services in College Park Center, Texas Hall, Maverick Stadium, Clay Gould Ballpark, and Allen Saxe Softball Field. For all other campus locations, U. T. Arlington reserves the right to offer for sale products and services that may be competitive or similar in nature to products and services offered by Sodexo through any of U. T. Arlington's present or future facilities.

24. Request for Budget Change - U. T. Arlington: New Hire with Tenure -- amendment to the 2015-2016 budget

The following Request for Budget Change (RBC) has been administratively approved by the Executive Vice Chancellor for Academic Affairs and is recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|--|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| College of Science | | | | | |
| Biology | | | | | |
| Associate Vice President for Research and Professor | | | | | |
| Jon Weidanz (T) | 1/13-8/31 | 100 | 12 | 235,000 | 7381 |

25. Request for Budget Change - U. T. Arlington: Tenure Appointments -- amendment to the 2015-2016 budget

The following Requests for Budget Changes (RBC) have been administratively approved by the Executive Vice Chancellor for Academic Affairs and are recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|---|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| College of Education | | | | | |
| Educational Leadership and Policy Studies | | | | | |
| Vice President for Academic Planning and Strategic Partnerships and Professor | | | | | |
| Linda Johnsrud (T) | 12/1-8/31 | 100 | 12 | 280,000 | 7386 |
| College of Engineering | | | | | |
| Materials Science Engineering | | | | | |
| Vice President for Research and Professor | | | | | |
| Duane Dimos (T) | 12/1-8/31 | 100 | 12 | 315,000 | 7385 |

26. Contract (funds coming in) - U. T. Austin: Amazon Pickup Points, Inc. will provide a website through which individuals may purchase personal items, with a share of revenues supporting U. T. Austin, and a merchandise pickup point location at the institution

Agency: Amazon Pickup Points, Inc. (Amazon)

Funds: Amazon will pay U. T. Austin a minimum royalty of \$125,000 per year for the first five years of the agreement; royalties thereafter are not guaranteed, but Amazon and U. T. Austin anticipate minimum royalty revenues in that range. Total agreement value is \$1,125,000, including \$625,000 in guaranteed minimum royalties over the initial five-year term and \$500,000 projected to be expended by Amazon to customize the space used at the institution.

Period: February 29, 2016 through February 28, 2021, with up to five one-year renewal terms

Description: Amazon will provide a co-branded Amazon-U. T. Austin subdomain within the "amazon.com" website through which members of the U. T. Austin community and the general public may purchase personal (non-University) items, with a share of revenues supporting U. T. Austin and the Division of Recreational Sports (RecSports). In support of the website, RecSports will provide a pick-up and return area with lockers within Gregory Gym for packages purchased through Amazon.

27. Contract (funds coming in) - U. T. Austin: Trademark License Agreement with Sports in Action, LLC, a Texas limited liability company, dba High Field Marketing, for use of certain University Interscholastic League trademarks and service marks

Agency: Sports in Action, LLC, dba High Field Marketing

Funds: High Field Marketing will pay U. T. Austin a royalty equal to 80% of cumulative adjusted gross revenue, with a guaranteed minimum royalty payment of \$500,000 each contract year. The total value of the agreement is not expected to exceed \$8,000,000.

Period: Initial Term: February 1, 2016 through August 31, 2018
Renewal Terms: Two additional two-year terms

Description: U. T. Austin will license High Field Marketing the rights to use certain University Interscholastic League (UIL) trademarks and service marks in connection with the operation by High Field Marketing of a marketing rights program related to UIL.

28. Contract (funds coming in and going out) - U. T. Austin: Flik International Corp., a wholly-owned subsidiary of Compass Group USA, Inc., will provide food and beverage items for faculty, staff, students, and invitees at a fixed cafeteria-style location and a faculty colloquium area, both located in the Education and Administration Building at the Dell Medical School; and nonexclusive catering services for the Dell Medical School

Agency: Flik International Corp. ("Flik")

Source of Funds: Auxiliary Funds

- Funds: Funds coming in to U. T. Austin:
- Estimated revenue for the 10-year period is \$4,882,712
 - Flik's Pre-Opening Expense Investment of \$85,540 to be used for expenditures related to commencing food services
- Funds going out to Flik:
- Management Fee - \$515,874 (estimated) over a period of 10 years
 - Advance of \$15,818 to Flik, which is equal to the estimated cost of two months of working capital needs for Flik
 - Estimated operating charges for a period of 10 years is \$4,275,994
- Period: Initial Term: March 1, 2016 through June 30, 2021
Renewal Term: Five possible renewal periods, each not to exceed one year
- Description: Flik will sell food and beverage items through a fixed cafeteria-style location and a faculty colloquium area, and provide nonexclusive catering services for the Dell Medical School. The agreement allows for additional food service locations to be operated by Flik at the Dell Medical School. This contract was competitively bid.

29. Contract (funds going out) - U. T. Austin: Services Agreement with Convergent Technologies LLC for change of electronic locks

- Agency: Convergent Technologies LLC
- Funds: \$2,026,171 through the life of the agreement. \$1,155,205 for the initial survey and changing more than 5,000 security devices. The remainder of the contract amount will be used for parts and materials, paint and repair, and changes beyond the original scope of work.
- Source of Funds: Unexpended Plant Funds
- Period: November 17, 2015 through November 31, 2017
- Description: Convergent Technologies LLC will provide turnkey remediation service to the Office of Information Technology Services for removal and replacement of approximately 5,000 building security system security devices and related infrastructure to support those devices. This contract was competitively bid.

30. Contract (funds going out) - U. T. Austin: TechComm Partners, Inc. will develop an online College and Career Readiness Math Professional Development Solicitation to design and develop virtual content and modules for the Charles A. Dana Center PK-12 Mathematics Professional Learning Initiative for the Department of Defense

Agency: TechComm Partners, Inc.

Funds: \$2,184,410 through the life of the agreement

Source of Funds: Federal Grant Funds

Period: November 16, 2015 through May 31, 2019

Description: TechComm Partners, Inc. will develop an online College and Career Readiness Math Professional Development Solicitation to design and develop virtual content and modules for the Charles A. Dana Center PK-12 Mathematics Professional Learning Initiative. The services are not being obtained under a competitive bidding process, but instead are being obtained as an exclusive acquisition.

31. Contract (funds going out) - U. T. Austin: To hire KPMG, LLP to help integrate the University Identity Access Management (IAM) Modernization Program Team for the implementation of SailPoint IdentityIQ

Agency: KPMG, LLP

Funds: The total cost for all deliverables in Phase 1, including optional post implementation support, is \$1,765,680; the estimated price for optional Phase 2 is \$1,400,000; the estimated price for optional Phase 3 is \$900,000 respectively.

The scopes of work for Phases 2 and 3 will be determined by U. T. Austin during Phase 1 and after U. T. Austin decides whether or not KPMG, LLP will be providing the services under Phases 2 and 3. The total value for all three phases of the agreement is \$4,065,680.

Source of Funds: Service Center Revenue derived from providing Information Technology Services to the campus

Period: November 16, 2015 through April 3, 2017 for Phase 1
 If U. T. Austin elects to have KPMG, LLP provide Optional Post Implementation Support and/or perform Phases 2 and 3 under the Statement of Work from the Deliverables Based Information Technology Services contract, then the agreement will be extended for two one-year terms, which could extend the agreement to 2019.

Description: KPMG, LLP will work with the U. T. Austin Identity Access Management (IAM) Modernization Program Team to establish and implement SailPoint IdentityIQ. The implementation will assist in the enabling of technologies to address gaps in IAM services. The implementation of SailPoint IdentityIQ will be completed in three phases, and phases two and three will be completed only if U. T. Austin decides to complete those phases with KPMG, LLP.

U. T. Austin contracted with KPMG, LLP using the contracts available through the Department of Information Resources (DIR). U. T. Austin solicited bids from two other vendors available under the DIR contracts. The current contract with KPMG, LLP stipulates that the agreement is not valid for amounts exceeding \$1,000,000 until approved by the U. T. System Board of Regents.

32. Contract (funds going out) - U. T. Austin: BFI Waste Services of Texas, L.P., dba Allied Waste Services, a Texas limited partnership, will provide solid waste and recycling services for areas managed by Division of Housing and Food Service (DHFS) and Facilities Services (FS)

Agency: BFI Waste Services of Texas, L.P., dba Allied Waste Services

Funds: Funds going out to BFI Waste Services of Texas, L.P., dba Allied Waste Services from DHFS:

The approximate total value of the Agreement with DHFS over the seven-year period is \$4,063,063.

| | |
|-----------------------|-------------|
| First three-year term | |
| Recycling | \$ 519,739 |
| Solid Waste | \$1,148,869 |

| | |
|--------------------------|------------|
| First two-year extension | |
| Recycling | \$ 363,817 |
| Solid Waste | \$ 804,208 |

| | |
|---------------------------|------------|
| Second two-year extension | |
| Recycling | \$ 382,008 |
| Solid Waste | \$ 844,419 |

Funds going out to BFI Waste Services of Texas, L.P., dba Allied Waste Services from FS:

The approximate total value of the agreement with FS over the seven-year period is \$1,386,917.

| | |
|-----------------------|------------|
| First three-year term | |
| Recycling | \$ 55,596 |
| Solid Waste | \$ 510,446 |

| | |
|--------------------------|------------|
| First two-year extension | |
| Recycling | \$ 43,320 |
| Solid Waste | \$ 357,312 |

| | |
|---------------------------|------------|
| Second two-year extension | |
| Recycling | \$ 45,063 |
| Solid Waste | \$ 375,177 |

Source of Funds: For DHFS: Student Housing Revenue
For FS: University Operation Support Funds

Period: Initial Term from March 1, 2016 through February 29, 2019.
Two possible renewal periods, each not to exceed two years with an allowed increase of up to 5% at each renewal period only if justified by an increase in the Consumer Price Index for all Urban Consumers relating to fuel costs and labor costs.

Description: For DHFS:
BFI Waste Services of Texas, L.P., dba Republic Services of Austin, will collect, haul, and accept recycling and solid waste for select areas on campus, the University Apartments, and other locations designated by DHFS.

For FS:
BFI Waste Services of Texas, L.P., dba Republic Services of Austin, will collect, haul, and accept recycling and solid waste for select areas on campus, the J.J. Pickle Research Campus, and other locations designated by FS.

33. Request for Budget Change - U. T. Austin: New Hires with Tenure -- amendment to the 2015-2016 budget

The following Requests for Budget Changes (RBC) have been administratively approved by the Executive Vice Chancellor for Academic Affairs and are recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|---------------------------------------|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| Dell Medical School | | | | | |
| Department of Medicine | | | | | |
| Professor | | | | | |
| Steven Warach (T) | 9/1-8/31 | 100 | 12 | 401,400 | 7366 |
| | | | | | |
| Department of Internal Medicine | | | | | |
| Professor | | | | | |
| Thomas Yankeelov (T) | 1/16-8/31 | 10 | 09 | 180,000 | 7367 |
| | | | | | |
| Cockrell School of Engineering | | | | | |
| Department of Biomedical Engineering | | | | | |
| Professor | | | | | |
| Thomas Yankeelov (T) | 1/16-8/31 | 90 | 09 | 180,000 | 7367 |

34. Request for Budget Change - U. T. Austin: Approval of Emeritus Titles

Susan B. Ardis, from Librarian III to Librarian Emerita, University of Texas Libraries (RBC No. 7436) -- amendment to the 2015-2016 budget

Klaus R. Bichteler, from Professor to Professor Emeritus, Department of Mathematics in the College of Natural Sciences (RBC No. 7409) -- amendment to the 2015-2016 budget

Frank B. Cross, from Professor to Professor Emeritus, in the School of Law (RBC No. 7413) -- amendment to the 2015-2016 budget

Nancy I. Elder, from Librarian III to Librarian Emerita, University of Texas Libraries (RBC No. 7437) -- amendment to the 2015-2016 budget

Robert Freeman, from Professor to Professor Emeritus, Department of Music in the College of Fine Arts (RBC No. 7414) -- amendment to the 2015-2016 budget

Rebecca Henderson, from Professor to Professor Emeritus, Department of Music in the College of Fine Arts (RBC No. 7415) -- amendment to the 2015-2016 budget

Jayadev Misra, from Professor to Schlumberger Centennial Chair Emeritus in Computer Sciences/Distinguished Teaching Professor Emeritus, Department of Computer Science in the College of Natural Sciences (RBC No. 7416) -- amendment to the 2015-2016 budget

David P. Neumeyer, from Professor to Professor Emeritus, Department of Music in the College of Fine Arts (RBC No. 7417) -- amendment to the 2015-2016 budget

James A. Nolen, Jr., from Distinguished Senior Lecturer to Distinguished Senior Lecturer Emeritus, Department of Finance in the McCombs School of Business (RBC No. 7438) -- amendment to the 2015-2016 budget

Jeffrey D. Vaaler, from Professor to Professor Emeritus, Department of Mathematics in the College of Natural Sciences (RBC No. 7418) -- amendment of the 2015-2016 budget

35. Employment Agreement - U. T. Austin: Assistant Football Coach Agreement for Sterlin H. Gilbert

The following Assistant Football Coach Employment Agreement has been approved by the Executive Vice Chancellor for Academic Affairs and is recommended for approval by the U. T. System Board of Regents. If the Agreement is approved, total compensation for the contract period for Sterlin H. Gilbert will be in excess of \$1 million. Such employment under the Agreement is subject to the Constitution and Bylaws of the National Collegiate Athletic Association, the Big 12, the Regents' *Rules and Regulations*, and the policies of The University of Texas at Austin (Regents' *Rules and Regulations*, Rule 10501, Section 2.2.12, Athletic Employment Agreements; and Rule 20204, Section 3, Board Approval). Any violation of the provisions of such constitution, bylaws, rules, regulations, or policies shall be grounds for suspension without pay and/or dismissal.

Item: Assistant Football Coach Agreement for Sterlin H. Gilbert

Proposed: **Guaranteed compensation:**

Annual Base Salary: \$850,000. The base salary will be reviewed at least annually and may be adjusted as deemed appropriate by the University.

Automobile: Courtesy dealer automobile or monthly allowance (\$7,500 value)

Social Club Membership: The University of Texas Golf Club

Relocation Housing Search: \$2,000 one-time, within 30 days of execution of the agreement

Nonguaranteed compensation:

Incentives:

- (a) \$20,000 in any contract year in which the team wins the Big 12 Championship;
- (b) \$20,000 in any contract year in which the team participates in a Bowl Game; and
- (c) an additional \$20,000 in any contract year in which the team wins in a Bowl Game.
- (d) \$30,000 in any contract year in which the team appears in one of the six (6) Major Bowls (Rose, Orange, Cotton, Sugar, Peach, and Fiesta); and
- (e) an additional \$30,000 in any contract year in which the team wins such Major Bowl.
- (f) \$40,000 in any contract year in which the team appears in the College Football Playoff Semi-Final game; and
- (g) an additional \$70,000 in any contract year in which the team wins the College Football Playoff Semi-Final game.
- (h) \$140,000 in any contract year in which the team wins the College Football Playoff National Championship game. However, if the team wins the College Football Playoff National Championship, then the Assistant Coach is not entitled to receive any incentives listed above in (f) and (g) related to the College Football Playoff Semi-Final game.
- (i) \$17,000 in any contract year in which the team is ranked second through fifth in the final national ranking by the Associated Press; or
- (j) \$10,000 in any contract year in which the team is ranked sixth through tenth in the final national ranking by the Associated Press.
- (k) \$25,000 in any contract year in which the Assistant Coach wins the Broyles Assistant Coach of the Year.

Source of funds: Intercollegiate Athletics Auxiliary Funds

Description: Agreement for employment of Sterlin H. Gilbert as Assistant Football Coach – Offensive Coordinator. Regents' *Rules and Regulations*, Rule 10501, Section 2.2.12(a), allows such hiring after appropriate consultation.

Period: December 12, 2015 through January 31, 2019

36. Employment Agreement - U. T. Austin: Assistant Football Coach Agreement for Matt G. Mattox

The following Assistant Football Coach Employment Agreement has been approved by the Executive Vice Chancellor for Academic Affairs and is recommended for approval by the U. T. System Board of Regents. If the Agreement is approved, total compensation for the contract period for Matt G. Mattox will be in excess of \$1 million. Such employment under the Agreement is subject to the Constitution and Bylaws of the National Collegiate Athletic Association, the Big 12, the Regents' *Rules and Regulations*, and the policies of The University of Texas at Austin (Regents' *Rules and Regulations*, Rule 10501, Section 2.2.12, Athletic Employment Agreements; and Rule 20204, Section 3, Board Approval). Any violation of the provisions of such constitution, bylaws, rules, regulations, or policies shall be grounds for suspension without pay and/or dismissal.

Item: Assistant Football Coach Agreement for Matt G. Mattox

Proposed: **Guaranteed compensation:**

Annual Base Salary: \$550,000. The base salary will be reviewed at least annually and may be adjusted as deemed appropriate by the University.

Automobile: Courtesy dealer automobile or monthly allowance (\$7,500 value)

Social Club Membership: The University of Texas Golf Club

Relocation Housing Search: \$2,000 one-time, within 30 days of execution of the Agreement

Nonguaranteed compensation:

Incentives:

(a) \$20,000 in any contract year in which the team wins the Big 12 Championship;

(b) \$20,000 in any contract year in which the team participates in a Bowl Game; and

(c) an additional \$20,000 in any contract year in which the team wins in a Bowl Game.

(d) \$30,000 in any contract year in which the team appears in one of the six (6) Major Bowls (Rose, Orange, Cotton, Sugar, Peach, and Fiesta); and

(e) an additional \$30,000 in any contract year in which the team wins such Major Bowl.

(f) \$40,000 in any contract year in which the team appears in the College Football Playoff Semi-Final game; and

(g) an additional \$70,000 in any contract year in which the team wins the College Football Playoff Semi-Final game.

(h) \$140,000 in any contract year in which the team wins the College Football Playoff National Championship game.

However, if the team wins the College Football Playoff National Championship, then the Assistant Coach is not entitled to receive any incentives listed above in (f) and (g) related to the College Football Playoff Semi-Final game.

- (i) \$17,000 in any contract year in which the team is ranked second through fifth in the final national ranking by the Associated Press; or
- (j) \$10,000 in any contract year in which the team is ranked sixth through tenth in the final national ranking by the Associated Press.
- (k) \$25,000 in any contract year in which the Assistant Coach wins the Broyles Assistant Coach of the Year.

Source of funds: Intercollegiate Athletics Auxiliary Funds

Description: Agreement for employment of Matt G. Mattox as Assistant Football Coach. Regents' *Rules and Regulations*, Rule 10501, Section 2.2.12(a), allows such hiring after appropriate consultation.

Period: December 12, 2015 through January 31, 2019

37. Purchase - U. T. Austin: Authorization to purchase a total of approximately 368 acres of vacant land located along the east line of Old Antioch Road, south of Gotier Trace Road in Bastrop County, Texas, from PK Row Ltd. for the College of Natural Sciences, Section of Integrative Biology

Description: Purchase of approximately 368 acres of unimproved land located along the east line of Old Antioch Road, south of Gotier Trace Road in Bastrop County, Texas, and authorization for the Executive Director of Real Estate to execute all documents, instruments, and other agreements, and to take all further actions deemed necessary or advisable to purchase the property. The use is to supplement the existing research footprint for the Stengl Lost Pines Biological Station, which is a satellite facility of Brackenridge Field Laboratory, administered through the Section of Integrative Biology in the School of Biological Sciences.

Seller: PK Row Ltd., a domestic limited partnership

Purchase Price: Not to exceed fair market value as determined by an independent appraisal performed by The Aegis Group; appraisal confidential pursuant to *Texas Education Code* Section 51.951.

Source of Funds: Restricted Funds (Gifts)

38. Request for Budget Change - U. T. Dallas: Tenure Appointments -- amendment to the 2015-2016 budget

The following Requests for Budget Changes (RBC) have been administratively approved by the Executive Vice Chancellor for Academic Affairs and are recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|--|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| Erik Jonsson School of Engineering and Computer Science | | | | | |
| Mechanical Engineering | | | | | |
| Associate Professor | | | | | |
| Arif Malik (T) | 9/1-5/31 | 100 | 09 | 112,000 | 7435 |
| School of Behavioral and Brain Science | | | | | |
| Hearing Science | | | | | |
| Associate Professor | | | | | |
| Edward Lobarinas (T) | 9/1-5/31 | 100 | 09 | 95,000 | 7432 |
| Colleen Le Prell (T) | 9/1-5/31 | 100 | 09 | 120,000 | 7431 |
| | SUPL | 100 | 12 | 12,000 | |
| School of Economic, Political and Policy Sciences | | | | | |
| Economics | | | | | |
| Associate Professor | | | | | |
| Seth Giertz (T) | 9/1-5/31 | 100 | 09 | 138,000 | 7430 |
| Political Science | | | | | |
| Associate Professor | | | | | |
| Idean Salehyan (T) | 9/1-5/31 | 100 | 09 | 113,000 | 7434 |

39. Request for Budget Change - U. T. Dallas: Approval of Emeritus Title of Duncan MacFarlane from Professor to Professor Emeritus, Department of Electrical Engineering in the Eric Jonsson School of Engineering and Computer Science (RBC No. 7427) -- amendment to the 2015-2016 budget

40. Contract (funds coming in and going out) - U. T. El Paso: Ticketmaster L.L.C. to provide computerized ticketing services

Agency: Ticketmaster L.L.C.

Source of Funds: Auxiliary Enterprise Funds

Funds: Funds coming in:
U. T. El Paso will receive rebates and commissions estimated at \$200,000 per year as revenue.

Funds going out:
License and Maintenance fees estimated at \$20,000 per year.

Period: February 5, 2016 through November 30, 2020, with options to renew for three additional one-year periods

Description: Ticketmaster L.L.C. to provide a computerized ticketing platform for the University Ticket Center, Athletic Season Ticket Office, University venue box offices, all satellite locations, and all authorized office workstations for the sale of tickets to individual, group, and season events. Tickets for events will be available for purchase through U. T. El Paso's on- and off-campus facilities, additional ticketing distribution sites (Outlet), telephone, and internet.

41. Request for Budget Change - U. T. El Paso: Tenure Appointment -- amendment to the 2014-2015 budget

The following Request for Budget Change (RBC) has been administratively approved by the Executive Vice Chancellor for Academic Affairs and is recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|--|----------------|----------|------------------|--------------------|-------|
| | | | No. Mos. | Rate \$ | |
| School of Pharmacy | | | | | |
| School of Pharmacy Jose O. Rivera | | | | | 7439 |
| From: Director and Clinical Professor | | 100 0 | 12 09 | 127,436 75,637 | |
| To: Founding Dean and Professor (T) | 8/24-8/31 | 100 0 | 12 09 | 220,000 150,000 | |

42. Request for Budget Change - U. T. El Paso: Approval of Emeritus Titles

Roy M. Arrowood, from Associate Professor to Associate Professor Emeritus, Metallurgical and Materials Engineering Department in the College of Engineering (RBC No. 7492) -- amendment to the 2015-2016 budget

Antonio Gonzalez, from Associate Professor to Associate Professor Emeritus, Teacher Education Department in the College of Education (RBC No. 7442) -- amendment to the 2015-2016 budget

Ronald A. Hufstader, from Professor to Professor Emeritus, Music Department in the College of Liberal Arts (RBC No. 7444) -- amendment to the 2015-2016 budget

Don P. Schulte, from Associate Professor to Associate Professor Emeritus, Educational Leadership and Foundations Department in the College of Education (RBC No. 7440) -- amendment to the 2015-2016 budget

Richard D. Sorenson, from Associate Professor to Associate Professor Emeritus, Educational Leadership and Foundations Department in the College of Education (RBC No. 7441) -- amendment to the 2015-2016 budget

43. Request for Budget Change - U. T. Rio Grande Valley: New Hire with Tenure -- amendment to the 2015-2016 budget

The following Requests for Budget Changes (RBC) have been administratively approved by the Executive Vice Chancellor for Academic Affairs and are recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|--|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| College of Education and P-16 Integration | | | | | |
| Dean and Professor Patricia McHatton (T) | 9/1-8/31 | 100 | 12 | 175,000 | 7406 |
| College of Engineering and Computer Science | | | | | |
| Dean and Professor Alexander Domijan, Jr. (T) | 9/1-8/31 | 100 | 12 | 220,000 | 7424 |
| Electrical Engineering Professor Theresa Maldonado (T) | 9/1-8/31 | 100 | 12 | 320,000 | 7425 |
| Associate Professor Nantakan Wongkasem (T) | 9/1-5/31 | 100 | 9 | 92,000 | 7229 |

College of Science

| | | | | | |
|--|----------|-----|----|---------|------|
| Dean and Professor Parwinder Grewal (T) | 9/1-8/31 | 100 | 12 | 235,000 | 7405 |
|--|----------|-----|----|---------|------|

Honors College

| | | | | | |
|---|----------|-----|----|---------|------|
| Dean and Professor Mark Christian Andersen (T) | 9/1-8/31 | 100 | 12 | 135,000 | 7426 |
|---|----------|-----|----|---------|------|

School of Medicine

| | | | | | |
|--|----------|-----|----|---------|------|
| Biomedical Sciences Professor Andreas Holzenburg (T) | 9/1-8/31 | 100 | 12 | 225,000 | 7445 |
|--|----------|-----|----|---------|------|

| | | | | | |
|---|----------|-----|----|---------|------|
| Psychiatry Dean and Professor Francisco Fernandez (T) | 9/1-8/31 | 100 | 12 | 547,826 | 7275 |
|---|----------|-----|----|---------|------|

44. Purchase - U. T. Rio Grande Valley: Authorization to purchase approximately 2.48 acres of land and improvements located at 826 and 835 East Levee Street, Brownsville, Cameron County, Texas, from Boulder Marketplace CWL, LLC, for future campus expansion

Description: Purchase of 18 city lots consisting of approximately 2.48 acres improved with a six story commercial office building with approximately 50,162 square feet located at 826 and 835 East Levee Street, Brownsville, Cameron County, Texas, for future campus expansion; and authorization for the Executive Director of Real Estate to execute all documents, instruments, and other agreements and to take all further actions deemed necessary or advisable to purchase these properties. This property is located approximately 2 miles from the Brownsville campus and will primarily be used to relocate administrative offices that had been displaced approximately 7 miles away during the split from Texas Southmost College. The size of the building and strategic proximity to the Brownsville campus will offer consolidation of administrative offices and potential classroom use.

Seller: Boulder Marketplace CWL, LLC, a Delaware limited liability company

Purchase Price: Not to exceed fair market value as determined by an independent appraisal performed by Aguirre & Patterson, Inc.; appraisal confidential pursuant to *Texas Education Code* Section 51.951.

Source of Funds: Unexpended Plant Funds

45. Contract (funds going out) - U. T. San Antonio: IMG Learfield Ticket Solutions, LLC to perform athletic ticket sales and marketing services

Agency: IMG Learfield Ticket Solutions, LLC, a Delaware limited liability company

Funds: An estimated \$4,500,000 for the initial term and both renewal terms. Service fees paid to IMG Learfield Ticket Solutions, LLC are based on a percent of ticket revenue actually paid to and received by U. T. San Antonio.

Source of Funds: Auxiliary Funds

Period: An initial 24-month term beginning October 31, 2015, with two additional 24-month renewals, at the option of U. T. San Antonio, for a total of four years.

Description: U. T. San Antonio is procuring athletic ticket sales and marketing services to support all U. T. San Antonio intercollegiate men's and women's athletic sport teams. U. T. San Antonio competitively procured these services.

46. Contract (funds coming in) - U. T. Tyler: Compass Group USA, Inc., by and through its Canteen Vending Services Division, to provide snack food vending machine services

Agency: Compass Group USA, Inc., by and through its Canteen Vending Services Division

Funds: Snack foods vending machine service agreement based on royalty from a 23% commission of gross sales. Estimated \$175,000 in gross sales and \$40,250 in royalty payments over the life of the contract, including all renewal options.

Period: February 11, 2016 through August 31, 2019, with option to extend for one additional two-year term

Description: Compass Group USA, Inc., by and through its Canteen Vending Services Division, to provide snack food vending machine services. In accordance with *Texas Education Code*, Section 51.945, the students were provided with an opportunity to comment prior to determination that this vending services provider should be selected by the institution. *Texas Government Code* Section 2203.005(a) requires all vending machine agreements to be approved by the Board.

47. Admissions Criteria - U. T. Tyler: Changes to Admission Criteria for Master of Science in Nursing (MSN) program

U. T. Tyler requests approval for changes to the criteria for admission into the Master of Science in Nursing (MSN) program as described below. The changes have been reviewed and administratively approved by the Executive Vice Chancellor for Academic Affairs and are recommended for approval by the U. T. System Board of Regents.

Summary of Changes to Admission Criteria

Currently, a satisfactory score on the verbal/quantitative portions of the Graduate Record Examination (GRE) is required for admission into the Master of Science in Nursing program. The entrance exam requirement is waived for MSN applicants with a grade point average of 3.2 or above for the last 60 semester credit hours of undergraduate course work. RN-MSN applicants are required to take the entrance exam.

The proposed changes would eliminate these requirements and instead allow students who do not meet the GPA requirement for Full admission to be granted Conditional admission based on satisfactory scores on the verbal/qualitative portions of the GRE. Typically, the program's admission committee expects GRE scores of at least 293 in the holistic review of applications with GPA below 3.0.

48. Request for Budget Change - U. T. Tyler: New Hires with Tenure -- amendment to the 2015-2016 budget

The following Requests for Budget Changes (RBC) have been administratively approved by the Executive Vice Chancellor for Academic Affairs and are recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|----------------------------|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| College of Pharmacy | | | | | |
| Pharmaceutical Sciences | | | | | |
| Associate Professor | | | | | |
| Leanne Merritt (T) | 1/5-8/31 | 100 | 12 | 110,000 | 6983 |
| Associate Professor | | | | | |
| David Pearson (T) | 1/5-8/31 | 100 | 12 | 110,000 | 6984 |

49. Purchase - U. T. Tyler: Authorization to purchase approximately 7.725 acres and improvements at 3500 Old Omen Road, Tyler, Smith County, Texas, from University Christian Church (Disciples of Christ) for future programmed campus expansion

Description: Purchase of approximately 7.725 acres located at 3500 Old Omen Road, Tyler, Smith County, Texas, together with the improvements located on the land; and authorization for the Executive Director of Real Estate to execute all documents, instruments, and other agreements, and to take all further actions deemed necessary or advisable to purchase the property. The improvements consist of a one-story church building and related paved parking. The property, which is across Old Omen Road from the U. T. Tyler campus and is adjacent to the institution's Ornelas Activity Center and Innovation Academy, will be used for future programmed campus expansion.

U. T. Tyler will license-back use of the church to University Christian Church for approximately three hours each Sunday for a total of 16 weeks.

Seller: University Christian Church (Disciples of Christ), a domestic nonprofit corporation

Purchase Price: Not to exceed fair market value as established by independent appraisal, plus all due diligence expenses, closing costs, and expenses to complete the acquisition as deemed necessary by the Executive Director of Real Estate. The appraisal is confidential pursuant to *Texas Education Code* Section 51.951.

The license fee will be \$56 per week for a total of \$900 over the term of the license. This total will be credited to the Seller in the purchase contract.

Source of Funds: Designated Tuition

HEALTH AFFAIRS COMMITTEE

50. Other Matters - U. T. System Health Institutions: Approval of Sexual Harassment and Sexual Misconduct Policies

The following sexual harassment and sexual misconduct policies for the U. T. System health institutions have been reviewed by the Office of Health Affairs and the Office of General Counsel and found to be in compliance with applicable laws and regulations. The policies, on the following pages, are being submitted for Board approval as required by federal law as referenced in Regents' *Rules and Regulations*, Rule 30105. Approval by the Board is recommended by the Chancellor, the Deputy Chancellor, the Executive Vice Chancellor for Health Affairs, and the Vice Chancellor and General Counsel.

Health Institutions

Sexual Harassment and Sexual Misconduct Policies

U. T. Southwestern Medical Center, [Page 619](#)

U. T. Medical Branch - Galveston, [Page 654](#)

U. T. Health Science Center - Houston, [Page 672](#)

U. T. Health Science Center - San Antonio, [Page 683](#)

U. T. M. D. Anderson Cancer Center, [Page 711](#)

U. T. Health Science Center - Tyler, [Page 727](#)

UT SOUTHWESTERN POLICY HANDBOOK

EDU-116 SEX DISCRIMINATION – SEXUAL MISCONDUCT, HARASSMENT, AND VIOLENCE

CHAPTER 10: STUDENTS, POSTDOCTORAL SCHOLARS, RESIDENTS, AND FELLOWS

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Policy Rationale and Text
Scope
Procedures
Responsibilities
Definitions
Previous Handbook Policy
Related Statutes
Contacts/For Further Information

ADMINISTRATIVE INFORMATION

Responsible Office: Dean's Office
Executive Sponsor: Provost
Effective Date: December 21, 2012
Last Reviewed: June 23, 2015
Next Scheduled Review: June 23, 2020
Contact: policyoffice@utsouthwestern.edu

POLICY RATIONALE AND TEXT

UT Southwestern is committed to ensuring that its working, educational, and training environments are free from discrimination based on sex. In accordance with Title IX of the Higher Education Amendments of 1972, the Campus Sexual Violence Elimination Act, and other federal and state laws, sex discrimination is strictly prohibited at UT Southwestern. Sexual misconduct is a form of prohibited sex discrimination that includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence, and dating violence. Retaliation against an individual who opposes a discriminatory practice, files an informal or formal complaint of sex discrimination, or testifies for, assists in, or participates in an investigation or other proceeding relating to sex discrimination is also strictly prohibited. Individuals who engage in conduct prohibited by this policy will be subject to disciplinary action, up to and including dismissal or non-renewal of appointment.

SCOPE

This policy applies to students, residents, and applicants to any UT Southwestern school or training program. All informal and formal complaints about sex discrimination brought by students, residents, or applicants will be handled in accordance with [EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure](#).

This policy also applies to all full-time, part-time, and temporary employees; individuals holding a faculty appointment; applicants for employment; and any individual participating in UT Southwestern services, programs, or activities, including but not limited to patients, visitors, volunteers, contractors, and vendors. However, all complaints about sex discrimination or sexual misconduct brought by individuals other than students, residents, or applicants to any UT Southwestern school or training program will be referred to the Office of Diversity & Inclusion and Equal Opportunity in accordance with the applicable UT Southwestern policy and procedure (see [ETH-151 Equal Opportunity](#), [ETH-154 Sexual Harassment and Sexual Misconduct](#), and [ETH-151P-01 Equal Opportunity Complaint, Investigation, and Resolution Procedure](#)).

This policy applies regardless of the gender, gender identity, or sexual orientation of either the complainant or the respondent. It applies to conduct that occurs on and off UT Southwestern premises, and via telephonic or electronic means (e.g., text message, e-mail, social media, or instant messaging), if such conduct may have an adverse effect on the complainant's education or participation in UT Southwestern programs or activities.

PROCEDURES (INCLUDING LINKS TO RELATED DOCUMENTS)

Reporting Sex Discrimination to UT Southwestern

1. Anyone who witnesses or is aware of any known or suspected incidents of sex discrimination is strongly encouraged to promptly report the incident to UT Southwestern. Incidents involving a student, resident, or applicant should be reported to the [Title IX Coordinator or a Deputy Title IX Coordinator](#). Incidents involving individuals other than a student, resident, or applicant should be reported to the Office of Diversity & Inclusion and Equal Opportunity, Division of Equal Opportunity (see [ETH-151 Equal Opportunity](#) and [ETH-154 Sexual Harassment and Sexual Misconduct](#)).
2. Reports may also be made to a Responsible Employee, to the Office of Compliance, or to the Compliance Hotline. All Responsible Employees, as defined in this policy, must promptly report incidents of known or suspected sex discrimination involving a student, resident, or applicant to the [Title IX Coordinator or a Deputy Title IX Coordinator](#).
3. Any student, resident, or applicant with questions or concerns about sex discrimination is strongly encouraged to seek assistance from the [Title IX Coordinator or a Deputy Title IX Coordinator](#). Any student, resident, or applicant who believes that he or she has been subjected to conduct prohibited by this policy is urged to immediately submit a request to invoke the informal resolution process or submit a formal complaint to the Title IX Coordinator or a Deputy Title IX Coordinator in accordance with [EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure](#).

Reporting Sexual Violence to Law Enforcement

1. Incidents of sexual violence (including domestic violence, dating violence, sexual assault, and stalking) that occurred on campus should be immediately reported to University Police at 214-648-8911 (emergency), 214-648-8311 (non-emergency), or via the online [Report a Crime](#) form.
2. Incidents of sexual violence occurring in other jurisdictions should be reported to the appropriate local law enforcement authority.
3. Individuals who witness or experience sexual violence are strongly encouraged to promptly report the incident to the appropriate law enforcement authority, regardless of whether the victim intends to pursue criminal charges.
4. Reporting sexual violence to law enforcement does not mean that the case will automatically go to criminal trial or to a UT Southwestern disciplinary proceeding. If a complaint of sexual violence is reported to University Police, the department will advise the complainant of his or her right to also submit a request to invoke the informal resolution process or submit a formal complaint to the Title IX Coordinator or a Deputy Title IX Coordinator in accordance with [EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure](#).
5. To the extent permitted by law and UT Southwestern policy, University Police will also notify the Title IX Coordinator when a sexual violence complaint involving a student, resident, or applicant is received and will provide the Title IX Coordinator access to related law enforcement records, so long as such access will not compromise any criminal investigation.

Additional Procedures for Victims of Sexual Violence

1. Any victim who experiences any form of sexual assault is encouraged to seek immediate medical care. It is important to preserve all physical evidence and to get a medical exam, regardless of whether the victim intends to report a crime, notify the police, or press criminal charges.

2. Individuals who have experienced a sexual assault are encouraged to have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) as soon as possible but no later than four (4) days after the incident. With the victim's consent, evidence collected during a SAFE can be used in a criminal investigation; however, a victim can undergo a SAFE even without contacting or intending to contact law enforcement. To undergo a SAFE, the individual should go directly to the emergency department of the nearest hospital that provides SAFE services. There are three hospitals in the city of Dallas equipped to offer SAFE services:
 - Parkland Hospital
 - THR Presbyterian Hospital of Dallas
 - Methodist Dallas

The cost of the forensic portion of the SAFE is covered by the law enforcement agency investigating the assault or, in cases where a report is not made to police, the Texas Department of Public Safety. This does not include the cost of medical treatment that is not part of the SAFE. More information may be found at: <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>.

3. An individual who has experienced a sexual assault but who does not plan to undergo a SAFE or report to police is strongly encouraged to seek medical attention and counseling. Counseling is available for students through Student Wellness and Counseling and for residents by contacting the Office of Graduate Medical Education.
4. For additional information and resources for individuals affected by sexual violence, please refer to [SEC-156 Violence on Campus](#) or contact the Title IX Coordinator, a Deputy Title IX Coordinator, the Office of Diversity & Inclusion and Equal Opportunity, or one of the other resources listed below.

Complaints

1. All informal and formal complaints about sex discrimination involving students, residents, or applicants to any UT Southwestern school or training program will be handled in accordance with [EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure](#). If a final determination is made under EDU-116P-01 that this policy was violated, the individual who committed the violation will be subject to disciplinary action and sanctions, up to and including termination or non-renewal of appointment, in accordance with the applicable disciplinary policy.
2. Complaints of retaliation directed at students, residents, or applicants should be brought to the Title IX Coordinator or a Deputy Title IX Coordinator and will be handled in accordance with [EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure](#).
3. Complaints about sex discrimination (including retaliation) brought by individuals other than students, residents, or applicants will be referred to the Office of Diversity & Inclusion and Equal Opportunity in accordance with the applicable UT Southwestern policy and procedure (see [ETH-151 Equal Opportunity](#), [ETH-154 Sexual Harassment and Sexual Misconduct](#), and [ETH-151P-01 Equal Opportunity Complaint, Investigation, and Resolution Procedure](#)).

Interim Measures and Ongoing Assistance

1. UT Southwestern's Title IX Coordinator and Deputy Coordinators are specially trained to provide education and support to individuals affected by sex discrimination, including assisting victims of sexual violence with obtaining medical or psychological treatment, reporting the incident to law enforcement, pursuing a formal complaint, and accessing support services and resources.
2. In addition to the resources and assistance available both on and off campus, UT Southwestern will take immediate interim measures, as appropriate, to ensure the safety and well-being of the complainant and the UT Southwestern

community and to maintain an environment free from sex discrimination. For example, if the respondent is an employee accused of sexual misconduct against a student, interim measures may include suspension or reassignment of the employee while the investigation is pending. If the respondent is a student accused of sexual misconduct against another student, interim measures may include changing the complainant's academic, living, transportation, and working situations; providing temporary or permanent on-campus housing or personal campus police escort services; or making changes to course schedules or clinical assignments.

3. The Title IX Coordinator and Deputy Coordinators have wide discretion to determine whether interim measures are needed, and if so, to decide what interim measures are appropriate. Interim measures will be kept as confidential as possible. Information about interim measures will only be shared on a need-to-know basis for legitimate purposes, e.g., implementing such measures and monitoring their effectiveness.

Ongoing Awareness and Training

This policy will be made available to all members of the UT Southwestern community online at <http://www.utsouthwestern.net/intranet/administration/policy-library/handbook/> and also through any of the campus resources listed below. Periodic notices will be sent to UT Southwestern administrators, faculty, staff, and students about this policy, including information about sexual misconduct, the complaint procedure, and applicable disciplinary policies and available resources, such as support, health, and mental health services.

UT Southwestern's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual campus-wide training regarding this policy and conduct that could constitute a violation of this policy, risk reduction, and strategies for appropriate bystander intervention. Preventive education and training are also available by contacting University Police or the Office of Diversity & Inclusion and Equal Opportunity. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct investigations and proceedings shall receive appropriate training about offenses, investigatory procedures, due process, and applicable UT Southwestern policies, procedures, and resources.

RESPONSIBILITIES

The [Title IX Coordinator and Deputy Title IX Coordinators](#) facilitate and oversee compliance with this policy; ensure that the working, educational, and training environments at UT Southwestern are free from sex discrimination; inform members of UT Southwestern about their rights and obligations under this policy; notify complainants of their right to bring a criminal complaint in addition to any request to invoke the informal resolution process or bring a formal complaint; receive and investigate complaints brought under this policy in the manner set forth in EDU-116P-01; help individuals who have experienced sex discrimination to access campus resources and identify options for bringing a complaint; and provide information and discuss concerns about sex discrimination. Any member of the UT Southwestern community may contact the Title IX Coordinator or a Deputy Title IX Coordinator with questions.

The [Office of Diversity & Inclusion and Equal Opportunity](#) refers students, residents, and applicants with concerns or complaints about sex discrimination to the Title IX Coordinator or a Deputy Title IX Coordinator; works with the Title IX Coordinator, Deputy Title IX Coordinators, and law enforcement, as appropriate, to ensure that the working, educational, and training environments at UT Southwestern are free from sex discrimination; handles complaints about sex discrimination made by individuals other than students, residents, and applicants in accordance with [ETH-151 Equal Opportunity](#), [ETH-154 Sexual Harassment and Sexual Misconduct](#), and [ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure](#).

The [University Police department](#) notifies complainants of their right to submit a request for informal resolution or a formal

complaint pursuant to EDU-116P-01, in addition to a criminal complaint; shares information with the Title IX Coordinator, Deputy Title IX Coordinators, and the Office of Diversity & Inclusion and Equal Opportunity, as appropriate; and provides crime prevention and security awareness resources, including sexual assault prevention and campus and personal safety.

[Student Wellness and Counseling](#) provides educational materials, counseling, and support to students who believe they have been subjected to sex discrimination or who have experienced sexual violence and advises complainants of their options under this policy and outside UT Southwestern, such as reporting to the police.

DEFINITIONS

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent. Consent is not effective if it results from: (a) the use of physical force; (b) a threat of physical force; (c) intimidation; (d) coercion; (e) incapacitation; or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

Dating Violence – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim with consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include domestic violence.

Domestic (Family) Violence – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment – sex-based harassment that is sufficiently severe or pervasive to deny educational opportunities or limit an individual's ability to participate in UT Southwestern programs or activities. A hostile environment can be created by anyone involved in a UT Southwestern program or activity (e.g., administrators, faculty members, employees, students, vendors, patients, and visitors).

In determining whether a hostile environment exists, UT Southwestern considers the conduct in question from both a subjective and objective perspective. To conclude that conduct created or contributed to a hostile environment, the conduct must be unwelcome to the complainant *and* a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists, UT Southwestern considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education. A single instance, if sufficiently severe, may be sufficient to create a hostile environment (e.g., sexual assault). Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

Resident – for the purposes of this policy, any physician in any Graduate Medical Education program at UT Southwestern, including interns, residents, fellows, and subspecialty residents.

Responsible Employees – UT Southwestern employees who must report known or suspected incidents of sexual misconduct involving students, residents or applicants to the Title IX Coordinator or Deputy Coordinators, including officials, administrators, faculty, supervisors, mentors, and academic advisors. Responsible Employees do not include individuals who are prohibited by confidentiality laws from reporting or identifying a victim without consent, including physical or mental health care professionals (Student Wellness and Counseling or other physician or counselor), pastoral or religious counselors, rape crisis centers, etc.

Retaliation – any action adversely impacting the educational or institutional status of an individual, or in any other manner harassing or discriminating against an individual, because he or she opposed sex discrimination; filed a complaint of sex discrimination; or testified for, assisted with, or participated in an investigation or other proceeding relating to sex discrimination.

Sexual Assault – a form of sexual violence that includes any offense that meets the definition of rape, fondling, incest, or statutory rape:

1. *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
2. *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental incapacity.
3. *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Harassment – unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when (1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's education or participation in UT Southwestern activities; (2) such conduct is sufficiently severe or pervasive that it interferes with an individual's education or participation in UT Southwestern activities, or creates an objectively hostile environment; or (3) such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education or participation in UT Southwestern activities, or creating a hostile environment. Sexual harassment is a form of prohibited sex discrimination that includes:

1. Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - a. unwelcome intentional touching; or
 - b. deliberate physical interference with or restriction of movement;
2. Verbal conduct including but not limited to:
 - a. explicit or implicit propositions to engage in sexual activity;

- b. gratuitous comments, jokes, questions, anecdotes, or remarks of a sexual nature about clothing or bodies;
 - c. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - d. persistent, unwanted sexual or romantic attention;
 - e. subtle or overt pressure for sexual favors;
3. Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct – a broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual harassment, sexual violence, sexual assault, sexual exploitation, sexual intimidation, domestic violence, dating violence, and stalking. The term also includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature that does not rise to the level of sexual harassment but is unprofessional and inappropriate for the education and training environment. Sexual misconduct is a form of prohibited sex discrimination. Sexual misconduct can be committed by men or women, strangers or acquaintances. Sexual misconduct can occur between or among people of the same or opposite sex, and even between or among consenting individuals if conduct is of a sexual nature and is unprofessional or inappropriate for the education and training environment.

Sexual Violence – physical sexual acts perpetrated against a person’s will or where a person is incapacitated or otherwise incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:

1. *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
2. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
3. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Student – for the purposes of this policy, an individual who is enrolled and in attendance at the UT Southwestern Medical School, School of Health Professions, or Graduate School of Biomedical Sciences, including postdoctoral scholars appointed to academic training positions.

UT Southwestern Premises – any area owned, operated, leased, occupied, or controlled by UT Southwestern, including buildings and structures, grounds, parking structures, enclosed bridges and walkways, sidewalks, parking lots, and UT Southwestern owned or leased vehicles.

PREVIOUS HANDBOOK POLICY CHAPTER AND NUMBER

Not applicable.

RELATED STATUTES, OTHER POLICIES, REQUIREMENTS, OR STANDARDS

- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681-1688 and its implementing regulations, 34 C.F.R. Part 106
- Title VII of the Civil Rights Act of 1972, and its implementing regulations, 29 C.F.R. §1604
- Clery Act, 20 U.S. C. 1092(f) and its implementing regulations, 34 C.F.R. Part 668
- [ETH-151 Equal Opportunity](#)
- [ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure](#)
- ETH-154 Sexual Harassment and Sexual Misconduct
- [EDU-116P-01 Sex Discrimination Complaint and Resolution](#)
- [SEC-156 Violence on Campus](#)
- Texas Labor Code Chapter 21
- Texas Family Code, Sections 71.0021, 71.004
- Texas Family Code Section 71.004
- Texas Penal Code, Section 42.072
- Regents' Rule 30105 Sexual Harassment, Sexual Misconduct, Consensual Sexual Relationships

REVISIONS AND UPDATES

July 3, 2015: Revised policy to comply with current laws and models provided by the UT System Office of General Counsel.

CONTACTS AND RESOURCES

Campus Resources

[Title IX Coordinator or Deputy Title IX Coordinator](#)

The Title IX Coordinators have specialized training and are knowledgeable about sexual violence, including domestic violence, dating violence, sexual assault, and stalking. They can assist individuals affected by sexual violence with accessing campus and community resources and pursuing a complaint.

[The Office of Diversity & Inclusion and Equal Opportunity](#) 214-648-4343

University Police

- On-Campus Emergency Number: 911
- Off-Campus Emergency/Cell Number: 214-648-8911
- On-Campus Non-Emergency Number: 88311
- Off-Campus Non-Emergency Number: 214-648-8311
- Crime Prevention Unit: 214-648-2220
- ["Report a Crime" via the University Police Crime Prevention web page](#)
- [University Police Annual Security Report](#)
- [UT Southwestern Emergency Response Guide](#)

Office of Compliance 214-648-6024

Compliance Hotline 877-507-7319

The Compliance Hotline is a confidential third-party reporting service that operates 24 hours a day, 7 days a week, and 365 days a year. Calls can be made anonymously or individuals may leave their name. Allegations are forwarded to UT Southwestern and will be promptly investigated.

Additional Campus Resources

- Office of Student and Alumni Affairs: 214-648-5617
- Student Wellness and Counseling Services: 214-645-8690
- Student Health Services: 214-645-8690
- Southwestern Medical School – Office of the Associate Dean for Student Affairs: 214-648-2168
- Southwestern Graduate School – Office of the Dean: 214-648-0715
- School of Health Professions – Office of the Dean: 214-648-1500
- Office of Graduate Medical Education: 214-648-3433

Off-Campus Resources

- Parkland Victim Intervention Program (VIP)/ Rape Crisis Center 24-hour Local Hotline: 214-590-0430
<http://www.parklandhospital.com/phhs/vip-rape-crisis-center.aspx>
- Dallas Area Rape Crisis Center 24-Hour Local Hotline: 972-641-RAPE (7273)
<http://www.dallasrapecrisis.org/who-we-are/>
- Rape, Abuse & Incest National Network (RAINN): 1-800-656-HOPE
<https://www.rainn.org/get-help/national-sexual-assault-hotline>
- Sexual Assault Legal Services & Assistance (SALSA): 1-888-343-4414
<http://www.hopelaws.org/>

UT SOUTHWESTERN POLICY HANDBOOK

PROCEDURE

EDU-116P-01: SEX DISCRIMINATION COMPLAINT AND RESOLUTION

Authorized by Policy EDU-116 Sex Discrimination – Sexual Misconduct, Harassment, and Violence

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ADMINISTRATIVE INFORMATION

Responsible Office: Dean’s Office
Executive Sponsor: Title IX Coordinator
Effective Date: January 11, 2013
Last Reviewed: June 23, 2015
Next Scheduled Review: June 23, 2020
Contact: policyoffice@utsouthwestern.edu

PURPOSE OF PROCEDURE

The purpose of this procedure is to set forth a timely and equitable process for resolving complaints brought by students, residents, and applicants to any UT Southwestern school or training program involving sex discrimination, including sexual misconduct, sexual harassment, sexual violence, sexual assault, stalking, domestic violence, and dating violence, in violation of EDU-116 Sex Discrimination – Sexual Misconduct, Harassment, and Violence. This procedure constitutes the grievance procedure for alleging unlawful sex discrimination as required under Title IX of the Education Amendments of 1972; as used herein, “complaint” is synonymous with “grievance.”

This procedure is not applicable to complaints of sex discrimination brought by full-time, part-time, and temporary employees; individuals holding a faculty appointment; applicants for employment; and any individual participating in UT Southwestern services, programs, or activities, including but not limited to patients, visitors, volunteers, contractors, and vendors. All complaints about sex discrimination or sexual misconduct brought by individuals other than students, residents, or applicants to any UT Southwestern school or training program will be referred to the Office of Diversity & Inclusion and Equal Opportunity in accordance with the applicable UT Southwestern policy and procedure (see ETH-151 Equal Opportunity, ETH-154 Sexual Harassment and Sexual Misconduct, and ETH-151P Equal Opportunity Complaint, Investigation, and Resolution Procedure).

STEPS OF PROCEDURE

How to Submit a Complaint

1. Any student, resident, or applicant who believes that he or she has been subjected to conduct prohibited by EDU-116 is urged to immediately contact the [Title IX Coordinator or a Deputy Title IX Coordinator](#) for assistance with submitting a request to invoke the informal resolution process or to submit a formal complaint in accordance with this procedure.
2. Individuals wishing to remain anonymous can report incidents of known or suspected sex discrimination and file a complaint. However, electing to remain anonymous may greatly limit UT Southwestern’s ability to conduct a

thorough investigation, collect evidence, stop the complained-of conduct, or take effective action against individuals accused of violating EDU-116.

3. Complaints should be submitted to the Title IX Coordinator or a Deputy Title IX Coordinator, preferably in writing, as soon as possible after the conduct giving rise to the complaint. Delay in making a complaint or report can greatly limit UT Southwestern's ability to conduct an investigation, implement appropriate interim measures, or take effective action against the alleged offender. In no case will a complainant be required to make a complaint or report of sex discrimination to the person accused of the conduct giving rise to the complaint.
4. Upon receipt of an informal or formal complaint, the Title IX Coordinator or Deputy Title IX Coordinator will attempt to inform the complainant of available campus and off-campus resources for further information and assistance. In the appropriate case, the Title IX Coordinator or a Deputy Title IX Coordinator will also evaluate whether interim measures are appropriate (see EDU-116).

Resolution Options

1. Any student, resident, or applicant who believes that he or she has been subjected to sex discrimination in violation of EDU-116 may invoke the informal resolution process and, if not satisfied with that process, may proceed directly to initiating a formal complaint.
2. The informal resolution process is not a pre-condition for making a formal complaint. However, both processes cannot be used at the same time, and once an individual has made a formal complaint, the informal resolution process is no longer available.

Informal Resolution Process

This process may be used to seek resolution of possible sex discrimination when the complainant does not wish to bring a formal complaint or as a prelude to bringing a formal complaint. Individuals are not required to use this option and may elect to end the informal resolution process at any time and begin the formal complaint process. The informal resolution process is not available to individuals alleging complaints involving sexual violence.

1. A complainant wishing to utilize the informal resolution process should submit a written request to the [Title IX Coordinator or a Deputy Title IX Coordinator](#). The written request to invoke the informal resolution process should describe in detail the nature of the conduct complained of and the desired outcome. A request to invoke the informal resolution process can be made verbally, but a written request is preferred.
2. The Title IX Coordinator or a Deputy Title IX Coordinator will work with the complainant to seek a resolution informally. Strategies for informal resolution may include providing the complainant with guidance on communicating to the respondent that his or her behavior is unwelcome, directing a UT Southwestern official to notify the respondent that his or her behavior is unwelcome and should cease, other action by an appropriate UT Southwestern official to address the conduct, or mediation. However, UT Southwestern may take more formal action, including disciplinary action, to ensure an environment free from sexual misconduct or harassment.
3. The informal resolution process should be completed within fourteen (14) working days from receipt of a request for informal resolution. The Title IX Coordinator or Deputy Title IX Coordinator shall appropriately document the informal resolution process and the outcome.
4. If the complainant is not satisfied with the outcome of the informal resolution process, the complainant can bring a formal complaint in the manner outlined below.

Formal Complaint Process

This process may be used to seek resolution of possible sex discrimination when the complainant wishes to file a formal complaint.

1. To initiate a formal complaint, the complainant should submit to the Title IX Coordinator or a Deputy Title IX Coordinator a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person(s) directly responsible for the alleged conduct; a detailed description of the conduct or event that is the basis of the complaint; all date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or other information relevant to the complaint.
2. While an investigation may begin on the basis of an oral complaint, the complainant is strongly encouraged to submit a written complaint. If the complaint is not in writing, the Title IX Coordinator or a Deputy Title IX Coordinator should prepare a written statement of what he or she understands the complaint to be and seek to obtain verification from the complainant.
3. The Title IX Coordinator or a Deputy Title IX Coordinator will conduct an initial assessment of all formal complaints received. Based on the initial assessment, the Title IX Coordinator or a Deputy Title IX Coordinator may recommend an informal resolution. The complainant may accept the recommended informal resolution or elect to proceed with the formal complaint process.
4. After completion of the initial assessment, the Title IX Coordinator or a Deputy Title IX Coordinator may either dismiss the complaint or initiate an investigation. A complaint may be dismissed without investigation if: the facts alleged in the complaint, even if taken as true, do not constitute sex discrimination; the complaint fails to allege any facts that suggest sex discrimination occurred; or the appropriate resolution or remedy has already been achieved, or has been offered and rejected.
5. If it is determined that a complaint will not be investigated, the Title IX Coordinator or a Deputy Title IX Coordinator will send the complainant a notification letter within ten (10) working days explaining the decision. The complainant may, within ten (10) working days of the notification, appeal the decision not to proceed with an investigation to the [Associate Dean](#). The written appeal must explain why the decision not to investigate the complaint was in error. The Associate Dean will respond within twenty (20) working days of receipt of the appeal. If the decision is overturned, the complaint will be sent back to the Title IX Coordinator or a Deputy Title IX Coordinator for investigation in accordance with the procedures outlined below. The Associate Dean's decision is final.
6. If it is determined that a complaint will be investigated, the respondent shall be provided with a copy of the complaint and allowed the opportunity to respond verbally and/or in writing within a reasonable time. If the response is not in writing, the Title IX Coordinator or a Deputy Title IX Coordinator should prepare a written statement of what he or she understands the response to be and seek to obtain verification from the respondent.
7. The complainant and the respondent will have an equal opportunity to present any documents or other information that is believed to be relevant to the investigation of the complaint.
8. Persons reasonably thought to have relevant information will be interviewed and such interviews will be appropriately documented. Both the complainant and the respondent may recommend witnesses for interview and suggest questions that should be asked. However, neither the complainant nor the respondent may participate in interviews of witnesses.
9. The investigation should be concluded as soon as possible after receipt of the written complaint. In investigations exceeding sixty (60) calendar days, an explanation for the delay will be provided to the complainant and the respondent. The complainant and respondent should be provided with regular updates on the progress of the investigation.

10. Within five (5) working days after completion of the investigation, the Title IX Coordinator or a Deputy Title IX Coordinator will send a written report to the [Associate Dean](#). The report shall include a recommendation as to whether a violation of EDU-116 occurred, an analysis of the facts discovered during the investigation, recommended disciplinary action if any, and any other recommended remedial action. Factual conclusions shall be based upon a “preponderance of the evidence” standard, i.e., it is more likely than not that a fact the complainant or respondent seeks to prove is true.
11. Written notification of the outcome of the investigation and a summary of the findings will be sent to the complainant and the respondent within ten (10) working days of the Associate Dean’s receipt of the report. The complainant and the respondent have seven (7) working days from the date of the notification letter to submit written comments to the Associate Dean regarding the investigation and outcome. However, if the complaint is against a student, the contents of the notification letter will be in accordance with the Family Education Rights and Privacy Act’s (FERPA) and Texas Education Code § 51.971 restrictions on disclosure of educational records, and neither the complainant nor the respondent will be permitted to provide comments to the Associate Dean.
12. Within twenty (20) working days after the deadline for receipt of comments from the complainant or respondent, the Associate Dean will take one of the following actions: (1) request that the Title IX Coordinator or a Deputy Title IX Coordinator conduct further investigation into the complaint; (2) dismiss the complaint if the results of the completed investigation are inconclusive or there is not a preponderance of the evidence to support the complaint; or (3) find that EDU-116 was violated. A decision that EDU-116 was violated shall be made upon the record provided by the investigation, any comments submitted by the complainant or respondent, and the totality of the evidence and circumstances surrounding the conduct complained of, including but not limited to the context of the conduct, its severity, its frequency, and whether it was physically threatening, humiliating, or simply offensive in nature. Factual conclusions shall be based upon a “preponderance of the evidence” standard, i.e., it is more likely than not that a fact the complainant or respondent seeks to prove is true.
13. The complainant and the respondent will be informed concurrently in writing of the Associate Dean’s decision. However, if the complaint is against a student, then the contents of the decision letter will be in accordance with the Family Educational Rights and Privacy Act (FERPA) and Texas Education Code § 51.971. The Associate Dean’s decision is final.
14. If the Associate Dean determines that EDU-116 was violated, he or she will refer the matter for further disciplinary action in accordance with the applicable disciplinary policy and procedures based on the status of the respondent (e.g., student, resident, or employee). Possible disciplinary sanctions for employees may include, but are not limited to, a verbal warning, a documented counseling, a written warning, suspension, demotion, reassignment, dismissal, or nonrenewal of appointment. Possible disciplinary sanctions for students or residents may include, but are not limited to, probation, suspension, or dismissal.

Provisions Applicable to the Informal Resolution and Formal Complaint Processes

1. The complainant and respondent may be assisted by a person of his or her choice, who may be an attorney; however, the assistant may not examine witnesses or otherwise actively participate in the investigation, including any meeting or interview. The Title IX Coordinator, Deputy Title IX Coordinator, and Associate Dean may be assisted by an attorney from the UT Southwestern Office of the Vice President for Legal Affairs, who also will not examine witnesses or otherwise actively participate in the investigation, including any meeting or interview.
2. Time limitations in these procedures may be modified at the discretion of the Title IX Coordinator, Deputy Title IX Coordinator, or the Associate Dean for good cause shown by the complainant, the respondent, or UT Southwestern.
3. Criminal or civil proceedings may continue concurrently with the informal resolution and formal complaint processes

outlined herein. Criminal or civil justice investigations, proceedings, findings, or outcomes are not determinative of either the procedures described herein or any UT Southwestern disciplinary procedures. UT Southwestern will not wait for police investigations or criminal or civil justice proceedings to be completed before taking action under this procedure, as UT Southwestern has an independent duty to respond to complaints of sex discrimination. At the request of law enforcement, UT Southwestern may delay its investigation until after the initial stages of a criminal investigation are completed. In that event, UT Southwestern will keep the complainant informed regarding the status and implementation of appropriate interim measures.

4. In both the informal resolution and formal complaint processes, UT Southwestern will take steps to prevent recurrence of any sex discrimination and to correct its effects on the complainant and others, as appropriate.
5. UT Southwestern shall document the informal resolution and formal complaint processes and their outcomes and retain copies of all materials in accord with federal and state law and UT Southwestern policy. The Title IX Coordinator shall retain such documentation separately from complainants' and respondents' official UT Southwestern files and will release such documentation only as permitted by law.
6. Any person who knowingly and intentionally files a false complaint or interferes with or provides false information in the course of an investigation under this procedure will be subject to disciplinary action, up to and including dismissal or non-renewal of appointment.
7. The filing of a complaint under this procedure will not stop or delay any action unrelated to the complaint, including actions related to an individual's failure to meet academic performance standards or standards of behavior or conduct.

Confidentiality

UT Southwestern has an obligation to maintain an environment free from sex discrimination. Thus, Responsible Employees, as defined herein, are required to report known or suspected incidents of sex discrimination that come to their attention and may not be able to honor an individual's request for complete confidentiality.

UT Southwestern will attempt to find the right balance between the complainant's desire for privacy and confidentiality and the responsibility to provide an environment free from sex discrimination. If the complainant requests that his or her name or other identifiable information not be revealed, UT Southwestern will evaluate that request in the context of UT Southwestern's responsibility to provide a safe and nondiscriminatory environment. UT Southwestern may weigh the complainant's request for confidentiality against multiple factors, including but not limited to: the seriousness of the alleged misconduct; whether there have been other complaints about the same individual; and the respondent's right to receive information about the allegations, in accordance with federal and state law. Individuals who wish to remain entirely anonymous may report sex discrimination using the Compliance Hotline. In the course of investigating a complaint, UT Southwestern will share information only as necessary with authorized people who need to know in order to fulfill the purpose of EDU-116 and this procedure, such as investigators, witnesses, and the respondent. UT Southwestern will take reasonable steps to ensure that there is no retaliation against a complainant or an individual who participates in an investigation or complaint proceeding. UT Southwestern will comply with the Family Education Rights and Privacy Act (FERPA), Texas Education Code § 51.971, and all other applicable confidentiality laws in the course of investigating and resolving complaints.

Non-disciplinary Remedial Actions

In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, UT Southwestern will take appropriate remedial action(s), including but not limited to those below, to resolve complaints of sexual misconduct, prevent any recurrence, and, as appropriate, remedy any effects:

1. Imposing non-disciplinary sanctions against the respondent, including attending additional training, assignment of a mentor, a period of monitoring, etc.;
2. Ensuring that the complainant and respondent do not share classes, training environments, or extracurricular activities;
3. Making modifications to the on-campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
4. Providing comprehensive victim services including medical, counseling, and academic support services, such as tutoring;
5. Providing other appropriate academic support, such as extra time to complete assignments or withdraw from a class without penalty;
6. Designating an individual trained in providing comprehensive services to assist victims of sexual violence;
7. Conducting an assessment of the overall learning and training environment to identify potential systemic misconduct;
8. Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a particular course, rotation, training program, academic college, clinical environment, laboratory, etc. Bystander intervention and sexual misconduct prevention programs may be appropriate.

These potential remedies are separate from, and in addition to, any interim measures that may have been provided during the pendency of an investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure.

REFERENCES

- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681-1688 and its implementing regulations, 34 C.F.R. Part 106
- Title VII of the Civil Rights Act of 1972, and its implementing regulations, 29 C.F.R. §1604
- Clery Act, 20 U.S. C. 1092(f) and its implementing regulations, 34 C.F.R. Part 668
- ETH-151 Equal Opportunity
- ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure
- EDU-116 Sex Discrimination – Sexual Misconduct, Harassment, and Violence
- EDU-116P-01 Sex Discrimination Complaint and Resolution
- SEC-156 Violence on Campus
- Texas Labor Code Chapter 21
- Texas Family Code, Sections 71.0021, 71.004
- Texas Family Code Section 71.004
- Texas Penal Code, Section 42.072
- Regents Rule 30105 Sexual Harassment, Sexual Misconduct, Consensual Sexual Relationships

DEFINITIONS

Dating Violence – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim with consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include domestic violence.

Domestic (Family) Violence – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating

with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment – sex-based harassment that is sufficiently severe or pervasive to deny educational opportunities or limit an individual's ability to participate in UT Southwestern programs or activities. A hostile environment can be created by anyone involved in a UT Southwestern program or activity (e.g., administrators, faculty members, employees, students, vendors, patients, and visitors).

In determining whether a hostile environment exists, UT Southwestern considers the conduct in question from both a subjective and objective perspective. To conclude that conduct created or contributed to a hostile environment, the conduct must be unwelcome to the complainant *and* a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists, UT Southwestern considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education. A single instance, if sufficiently severe, may be sufficient to create a hostile environment (e.g., sexual assault). Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

Resident – for the purposes of this policy, any physician in any Graduate Medical Education program at UT Southwestern, including interns, residents, fellows, and subspecialty residents.

Responsible Employees – UT Southwestern employees who must report known or suspected incidents of sexual misconduct involving students, residents, or applicants to the Title IX Coordinator or Deputy Coordinators, including officials, administrators, faculty, supervisors, mentors, and academic advisors. Responsible Employees do not include individuals who are prohibited by confidentiality laws from reporting or identifying a victim without consent, including physical or mental health care professionals (Student Wellness and Counseling or other physician or counselor), pastoral or religious counselors, rape crisis centers, etc.

Retaliation – any action adversely impacting the education or institutional status of an individual, or in any other manner harassing or discriminating against an individual, because he or she opposed sex discrimination; filed a complaint of sex discrimination; or testified for, assisted with, or participated in an investigation or other proceeding relating to sex discrimination.

Sexual Assault – a form of sexual violence that includes any offense that meets the definition of rape, fondling, incest, or statutory rape:

1. *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
2. *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental incapacity.
3. *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

4. *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Harassment – unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's education or participation in UT Southwestern activities; (2) such conduct is sufficiently severe or pervasive that it interferes with an individual's education or participation in UT Southwestern activities, or creates an objectively hostile environment; or (3) such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education or participation in UT Southwestern activities, or creating a hostile environment. Sexual harassment is a form of prohibited sex discrimination that includes:

1. Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - a. unwelcome intentional touching; or
 - b. deliberate physical interference with or restriction of movement;
2. Verbal conduct including but not limited to:
 - a. explicit or implicit propositions to engage in sexual activity;
 - b. gratuitous comments, jokes, questions, anecdotes, or remarks of a sexual nature about clothing or bodies;
 - c. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - d. persistent, unwanted sexual or romantic attention;
 - e. subtle or overt pressure for sexual favors;
3. Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct – a broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual harassment, sexual violence, sexual assault, sexual exploitation, sexual intimidation, domestic violence, dating violence, and stalking. The term also includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature that does not rise to the level of sexual harassment but is unprofessional and inappropriate for the education and training environment. Sexual misconduct is a form of prohibited sex discrimination. Sexual misconduct can be committed by men or women, strangers or acquaintances. Sexual misconduct can occur between or among people of the same or opposite sex, and even between or among consenting individuals if conduct is of a sexual nature and is unprofessional or inappropriate for the education and training environment.

Sexual Violence – physical sexual acts perpetrated against a person's will or where a person is incapacitated or otherwise incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:

1. *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or

communicates to or about a person, or interferes with a person's property.

2. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
3. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Student – for the purposes of this policy, an individual who is enrolled and in attendance at the UT Southwestern Medical School, School of Health Professions, or Graduate School of Biomedical Sciences, including postdoctoral scholars appointed to academic training positions.

CONTACT / FOR FURTHER INFORMATION

[Title IX Coordinator and Deputy Coordinators](#)

UT SOUTHWESTERN POLICY HANDBOOK

PROCEDURE

ETH-151P-01 EQUAL OPPORTUNITY COMPLAINT INVESTIGATION AND RESOLUTION

Authorized by the following policies:

ETH-151 Equal Opportunity

ETH-152 Reasonable Accommodations for Qualified Applicants and Employees with Disabilities

ETH-154 Sexual Harassment and Sexual Misconduct

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ADMINISTRATIVE INFORMATION

Responsible Office: Office of Diversity & Inclusion and Equal Opportunity

Executive Sponsor: Vice President for Community and Corporate Relations

Effective Date: April 7, 2015

Last Reviewed: March 24, 2015

Next Scheduled Review: March 24, 2020

Contact: policyoffice@utsouthwestern.edu

APPLICABILITY OF PROCEDURE

The purpose of this procedure is to set forth a timely and equitable process for resolving complaints alleging discrimination, harassment, retaliation, or sexual misconduct in violation of UT Southwestern policies ETH-151 Equal Opportunity, ETH-152 Reasonable Accommodations for Qualified Applicants and Employees with Disabilities, and/or ETH-154 Sexual Harassment and Sexual Misconduct. This procedure applies to complaints brought by full-time, part-time, and temporary employees; individuals holding a faculty appointment; residents; applicants for employment; applicants for any UT Southwestern training program; and any individual participating in UT Southwestern services, programs, or activities, including but not limited to patients, visitors, volunteers, contractors, and vendors.

This procedure does not apply to complaints brought by students, residents, or applicants for any UT Southwestern school or training program alleging violation of EDU-116 Sex Discrimination - Sexual Misconduct, Harassment, and Violence; such complaints will be handled in accordance with EDU-116P-01 Sex Discrimination Complaint and Resolution Procedures. This procedure also does not apply to complaints brought by students or applicants for any UT Southwestern school alleging discrimination, harassment, or retaliation on the basis of a protected status other than sex. Students or applicants for any UT Southwestern school with complaints about discrimination (other than sex discrimination) should consult the applicable UT Southwestern catalog for school-specific complaint and resolution procedures.

STEPS OF PROCEDURE

Submitting a Complaint

1. An individual who believes that he or she has not been treated in compliance with ETH-151 Equal Opportunity, ETH-152 Reasonable Accommodations for Qualified Applicants and Employees with Disabilities, or ETH-154 Sexual Harassment or Sexual Misconduct should submit a written complaint to the Office of Diversity & Inclusion and Equal Opportunity, Division of Equal Opportunity, as soon as possible after the conduct giving rise to the complaint, but no later than 90 calendar days after the last suspected act of discrimination, harassment, retaliation, or sexual misconduct.
2. Written complaints submitted to the Division of Equal Opportunity should set out in detail the nature of the complaint and should include the following:
 - a. the complainant's name, signature, and contact information;
 - b. a detailed description of the conduct or event that is the basis of the complaint;
 - c. the date(s) and location(s) of the conduct or event;
 - d. the name(s) of the person(s) directly responsible for the conduct or event;
 - e. the names of all witnesses to the conduct or event; and
 - f. any documents, communications, emails, text messages, or other information the complainant believes may be relevant.
3. Complainants are strongly encouraged to submit a written complaint and to include all of the information set forth in paragraph 2. If a complaint is not in writing, the Division of Equal Opportunity will prepare a written statement summarizing the basis of the complaint and will provide it to the complainant for signature. If a complainant does not sign the written statement or otherwise submit sufficient information in writing to allow the complaint to proceed, the Division of Equal Opportunity will deem the complaint withdrawn.
4. Anonymous communications (other than complaints to the Compliance Hotline); courtesy copies of correspondence or complaints submitted to an external agency or third-party; inquiries that seek advice or information only; or pre-complaint consultations are not considered complaints and will not be investigated in accordance with this procedure.
5. Employees must use this procedure to submit a complaint alleging violation of ETH-151 Equal Opportunity, ETH-152 Reasonable Accommodations for Qualified Applicants and Employees with Disabilities, and/or ETH-154 Sexual Harassment or Sexual Misconduct. Employee complaints regarding discrimination, harassment, retaliation, or sexual misconduct are not properly raised or considered in any appeal of disciplinary action (see EMP-351 Discipline and Discharge) or any grievance (see EMP-401 Grievances). However, employees may continue to appeal a disciplinary action and/or pursue a grievance on non-equal opportunity grounds (see EMP-351P-02 Appealing Disciplinary Actions and EMP-401-P-01 Procedure for Bringing a Grievance).
6. Any person who knowingly and intentionally files a false complaint or provides false information in the course of an investigation under this procedure will be subject to disciplinary action, up to and including dismissal or non-renewal of appointment.

Investigative Process

1. An investigation will be initiated by the Division of Equal Opportunity if the complaint is complete and timely, falls within the scope of this procedure, and articulates sufficient facts that, if determined to be true, would support a finding that UT Southwestern policy was violated.

2. The Division of Equal Opportunity may determine that a complaint will not be investigated when:
 - a. it is submitted more than 90 calendar days after the last alleged act of discrimination, harassment, retaliation, or sexual misconduct;
 - b. the complainant withdraws the complaint;
 - c. appropriate remedial action has already been taken, or has been offered and rejected;
 - d. another internal complaint resolution process is more appropriate;
 - e. another internal complaint resolution process is pending or has already been completed;
 - f. the substance of the complaint is the subject of pending litigation or other external resolution process, such as before the Equal Employment Opportunity Commission or the Texas Workforce Commission; or
 - g. the complaint is based on allegations that, even if determined to be true, would not support a finding that discrimination, harassment, retaliation, or sexual misconduct occurred.
3. Within 14 business days of receipt of the complaint, the Division of Equal Opportunity will notify the complainant in writing that the complaint has been received and whether it will be investigated. If the complaint will not be investigated, the notice will provide the reason. If the Division of Equal Opportunity determines that a complaint will not be investigated, the complainant may appeal that decision to the Vice President for Community and Corporate Relations in accordance with the "Appeals" section, below.
4. The Division of Equal Opportunity will appoint an appropriate investigator to review the complaint. The investigator will interview the complainant, the respondent, and any other persons that he or she believes may have pertinent information. The complainant and the respondent may suggest witnesses for the investigator to interview, but the selection of persons to interview is solely within the discretion of the investigator. Neither the complainant nor the respondent may participate in interviews. The investigator will also gather and examine relevant documents; the complainant and the respondent will have an equal chance to present any documents or other information they believe to be relevant to the investigation.

Findings, Reports, and Recommendations

1. Investigative findings will be based on the totality of the evidence. The investigator may also consider the context of the conduct; the conduct's severity and frequency; and whether the conduct was physically threatening, humiliating, or simply offensive in nature to a reasonable person.
2. The investigator will prepare a final report that summarizes the investigation conducted, the facts presented, and the investigator's findings and recommendations and will submit the report to the Director of Equal Opportunity.
3. The Director of Equal Opportunity will submit a written decision to the complainant as soon as practicable but no later than 60 calendar days after receipt of the written complaint or written verification of an oral complaint. If the investigator anticipates that an investigation will take longer than 60 calendar days, the investigator must provide a written explanation for the delay and an estimated completion date to the complainant, the respondent, and the Vice President for Community and Corporate Relations.

Appeals

If dissatisfied with the decision of the Division of Equal Opportunity, the complainant may appeal in writing to the Vice President for Community and Corporate Relation within five (5) business days. The appeal should set forth the reasons why

the complainant believes the decision of the Division of Equal Opportunity was in error and the remedy sought. The Vice President for Community and Corporate Relations may, at his or her discretion, schedule a meeting with the complainant to review the appeal. The Vice President for Community and Corporate Relations will issue a written decision to the complainant within thirty (30) calendar days of receipt of the appeal. The decision of the Vice President for Community and Corporate Relations is final with respect to issues covered by this procedure.

Confidentiality and Documentation

UT Southwestern will attempt to find the right balance between the complainant's desire for privacy and confidentiality and the responsibility to provide an environment free from discrimination, harassment, retaliation, and sexual misconduct. If the complainant requests that his or her name or other identifiable information not be revealed, UT Southwestern will evaluate that request in the context of UT Southwestern's responsibility to provide a safe and nondiscriminatory environment. UT Southwestern may weigh the complainant's request for confidentiality against multiple factors, including but not limited to: the seriousness of the alleged misconduct; whether there have been other complaints about the same individual; and the respondent's right to receive information about the allegations, in accordance with federal and state law.

The Office of Diversity & Inclusion and Equal Opportunity will document the complaint, the investigation process, and the outcome, and will retain copies of all materials in accordance with federal and state law and UT Southwestern policy. All documentation must be retained separately from complainants' and respondents' official UT Southwestern files (e.g., personnel file, resident file, application file, etc.) and will be released only as permitted by law.

DEFINITIONS

Discrimination – conduct directed at an individual or group of individuals that adversely affects their employment, education, or training, or participation in UT Southwestern activities because of race, color, religion, sex, age, national origin, disability, genetic information, protected veteran status, citizenship status, sexual orientation, gender identity, or gender expression.

Harassment – a form of prohibited discrimination that involves unwelcome conduct directed at an individual or a group of individuals because of race, color, religion, sex, age, national origin, disability, genetic information, protected veteran status, citizenship status, sexual orientation, gender identity, or gender expression; and, such conduct is sufficiently severe, pervasive, or persistent as to interfere with academic or work performance or create an environment that would be intimidating, hostile, or offensive to a reasonable person.

Retaliation – a form of prohibited discrimination that includes any action adversely impacting the employment, education, training, or institutional status of an individual, or in any other manner harassing or discriminating against an individual, because he or she opposed a discriminatory practice, filed a complaint or charge of discrimination, or testified for, assisted with, or participated in an investigation or other proceeding relating to discrimination

Sexual Misconduct – a form of prohibited sex discrimination that encompasses sexual harassment and sexual violence, as well as conduct of a sexual nature that is unprofessional and inappropriate for the educational, training, and working environments, e.g., inappropriate jokes, comments, e-mails, or photographs, even if not sufficiently severe or pervasive to constitute sexual harassment. Such actions may constitute prohibited sexual misconduct under ETH-154 even if the conduct appears welcomed or consensual.

Student – for the purposes of this policy, an individual, who is enrolled and in attendance at the UT Southwestern Medical School, School of Health Professions, or Graduate School of Biomedical Sciences, including postdoctoral scholars appointed to academic training positions.

Resident – for the purposes of this policy, any physician in any Graduate Medical Education program at UT Southwestern,

including interns, residents, fellows and subspecialty residents.

REFERENCES

Regents' Rule 10701 Policy Against Discrimination
UT System Systemwide Policy UTS105 Sexual Orientation Nondiscrimination Policy
UT System Systemwide Policy UTS131 Protection from Retaliation for Reporting Suspected Wrongdoing
EDU-103 Learners with Disabilities
EDU-116 Sex Discrimination – Sexual Misconduct, Harassment, and Violence
EDU-116P Sex Discrimination Complaint and Resolution
ETH-152 Reasonable Accommodations for Qualified Applicants and Employees with Disabilities
ETH-154 Sexual Harassment and Sexual Misconduct
SEC-156 Violence on Campus
Americans with Disabilities Act of 1990 (As Amended)
Age Discrimination Act of 1975 (As Amended)
Age Discrimination in Employment Act of 1967 (As Amended)
Texas Labor Code Chapter 21
Section 504 of the Rehabilitation Act of 1973
Title VII of the Civil Rights Act of 1964 (As Amended)
Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681
Immigration and Nationality Act (INA), 8 U.S.C. § 1324b
Vietnam Era Veterans' Readjustment Assistance Act of 1974 (As Amended)
Genetic Information Nondiscrimination Act of 2008

CONTACT / FOR FURTHER INFORMATION

Office of Diversity & Inclusion and Equal Opportunity 214-648-4343

UT SOUTHWESTERN POLICY HANDBOOK

ETH-154: SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

CHAPTER 3: ETHICS, COMPLIANCE, AND STANDARDS OF BEHAVIOR

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ADMINISTRATIVE INFORMATION

Responsible Office: Office of Diversity & Inclusion and Equal Opportunity
Executive Sponsor: Vice President for Community and Corporate Relations
Effective Date: January 4, 2008
Last Reviewed: May 26, 2015
Revised: June 5, 2015
Next Scheduled Review: May 26, 2020
Contact: policyoffice@utsouthwestern.edu

POLICY RATIONALE AND TEXT

UT Southwestern is committed to ensuring that its campus environment is free from sexual harassment and sexual misconduct and other conduct of a sexual nature that is unprofessional and inappropriate for the workplace. Sexual harassment and sexual misconduct are prohibited forms of sex discrimination and will not be tolerated. UT Southwestern also prohibits retaliation against any individual who opposes sexual harassment and sexual misconduct, files a complaint of sexual harassment and sexual misconduct, or testifies for, assists in, or participates in an investigation or other proceeding of the same.

UT Southwestern employees who engage in conduct prohibited by this policy are subject to disciplinary action, up to and including dismissal or non-renewal of appointment. UT Southwestern will take prompt and appropriate remedial action against any individual or organization under its control for violation of this policy.

SCOPE

This policy applies to all full-time, part-time, and temporary employees; individuals holding a faculty appointment; applicants for employment; and any individual participating in UT Southwestern services, programs, or activities, including but not limited to patients, visitors, volunteers, contractors, and vendors.

This policy applies regardless of the gender, gender identity, or sexual orientation of either the complainant or the alleged offender. It applies to conduct regardless of whether it occurs on or off UT Southwestern property, or via telephonic or electronic means (*e.g.*, text message, e-mail, social media, or instant messaging), if such conduct may have an adverse effect on the complainant's employment or participation in or benefit from UT Southwestern programs or activities.

This policy does not apply to students, residents, or applicants to any UT Southwestern school or training program who have concerns or complaints about sexual misconduct. Those individuals should refer to [EDU-116 Sex Discrimination – Sexual Misconduct, Harassment, and Violence](#) and contact the Title IX Coordinator or Deputy Title IX Coordinators per [EDU-116P-01](#)

[Sex Discrimination Complaint and Resolution.](#)

PROCEDURES (INCLUDING LINKS TO RELATED DOCUMENTS)

Reporting Sexual Harassment and Sexual Misconduct to UT Southwestern

- Anyone who witnesses or is aware of any known or suspected incidents of sexual harassment or sexual misconduct is strongly encouraged to promptly report the incident to UT Southwestern. Reports may be made to the Office of Diversity & Inclusion and Equal Opportunity, Division of Equal Opportunity, or to any UT Southwestern official, administrator, or supervisor.
- Every UT Southwestern official, administrator, or supervisor is responsible for promptly reporting to the Division of Equal Opportunity any known or suspected incidents of sexual harassment or sexual misconduct that come to their attention.
- Employees who are not UT Southwestern officials, administrators, or supervisors are strongly encouraged to promptly report any known or suspected incidents of sexual harassment or sexual misconduct to the Division of Equal Opportunity.
- Reports should be made as soon as possible after the incident occurs. Delays in reporting can limit UT Southwestern's ability to take effective action to address violations of this policy.
- In no instance will any individual be required to report incidents of known or suspected sexual harassment or sexual misconduct to the alleged offender.
- Sexual harassment and sexual misconduct complaints by employees, individuals holding a faculty appointment, applicants for employment, and individuals participating in UT Southwestern services, programs, or activities should be submitted and will be handled in accordance with [ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure](#).
- In an appropriate case, UT Southwestern may take immediate or interim measures to ensure the safety and well-being of the UT Southwestern community and to maintain an environment free from sexual harassment and sexual misconduct, pending the outcome of a complaint or investigation.
- Sexual harassment and sexual misconduct complaints brought by students, residents, or applicants to any UT Southwestern school or training program will be handled in accordance with [EDU-116P-01 Sex Discrimination Complaint and Resolution Procedures](#).

Reporting Sexual Violence to Law Enforcement

- Incidents of sexual violence, including sexual assault, domestic or dating violence, stalking, and sexual exploitation that occurred on campus should be immediately reported to University Police at 214-648-8911 (emergency), 214-648-8311 (non-emergency) or via the online [Report a Crime](#) form.
- Incidents of sexual violence occurring in other jurisdictions should be reported to the appropriate local law enforcement authority.
- Individuals are strongly encouraged to promptly report incidents of sexual violence to the appropriate law enforcement authority, regardless of whether the victim intends to pursue criminal charges.
- Victims of sexual assault are encouraged to seek immediate medical care, preserve all physical evidence, and get an appropriate medical exam, regardless of whether the victim intends to report a crime, notify the police, or press

criminal charges.

- For additional information and resources for individuals affected by sexual violence, please refer to [SEC-156 Violence on Campus](#) and [EDU-116 Sex Discrimination - Sexual Misconduct, Harassment, and Violence](#) or contact the Office of Diversity & Inclusion and Equal Opportunity, the Title IX Coordinator, or a Deputy Title IX Coordinator.

Training

- UT Southwestern will provide appropriate training and preventative education to employees, faculty, students, and residents regarding sexual misconduct; the application of this policy and application of [EDU-116 Sex Discrimination - Sexual Misconduct, Harassment, and Violence](#); available complaint mechanisms and resolution procedures; and available campus and community resources.
- The Office of Diversity & Inclusion and Equal Opportunity, the Title IX Coordinator, and the Deputy Title IX Coordinators receive specialized training to handle sexual misconduct complaints and to assist individuals affected by sexual misconduct with accessing campus and community resources.
- Additional training opportunities regarding campus and personal safety and crime prevention are available by contacting University Police.

DEFINITIONS

Sexual Harassment – unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when (1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or participation in UT Southwestern activities; (2) such conduct is sufficiently severe or pervasive that it interferes with an individual's employment or participation in UT Southwestern activities, or creates an objectively hostile environment; or (3) such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's employment or participation in UT Southwestern activities, or creating a hostile environment. Sexual harassment is a form of prohibited sex discrimination that includes:

- A. Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. unwelcome intentional touching; or
 - ii. deliberate physical interference with or restriction of movement.
- B. Verbal conduct including but not limited to:
 - i. explicit or implicit propositions to engage in sexual activity;
 - ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. persistent, unwanted sexual or romantic attention;
 - v. subtle or overt pressure for sexual favors;
- C. Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct – a broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual harassment, sexual violence, sexual assault, sexual exploitation, sexual intimidation, domestic violence, dating violence, and stalking. The term also includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature that does not rise to the level of sexual harassment but is unprofessional and inappropriate for the workplace. Sexual misconduct can be committed by men or women, strangers or

acquaintances. Sexual misconduct can occur between or among people of the same or opposite sex, and even between or among consenting individuals if conduct is of a sexual nature and is unprofessional or inappropriate for the workplace.

Hostile Environment – sex-based harassment is sufficiently severe or pervasive to deny or limit an individual’s ability to participate in UT Southwestern programs or activities or an employee’s terms and conditions of employment. A hostile environment can be created by anyone involved in a UT Southwestern program or activity (*e.g.*, administrators, faculty members, employees, students, vendors, patients and visitors).

In determining whether a hostile environment exists, UT Southwestern considers the conduct in question from both a subjective and objective perspective. To conclude that conduct created or contributed to a hostile environment, the conduct must be unwelcome to the complainant *and* a reasonable person in the individual’s position would have perceived the conduct as undesirable or offensive.

Sexual Violence – physical sexual acts perpetrated against a person’s will or where a person is incapacitated or otherwise incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Retaliation – any action adversely impacting the employment or institutional status of an individual, or in any other manner harassing or discriminating against an individual, because he or she opposed sexual misconduct, filed a complaint or charge of sexual misconduct, or testified for, assisted with, or participated in an investigation or other proceeding relating to sexual misconduct.

Student – for the purposes of this policy, an individual who is enrolled and in attendance at the UT Southwestern Medical School, School of Health Professions, or Graduate School of Biomedical Sciences, including postdoctoral scholars appointed to academic training positions.

Resident – for the purposes of this policy, any physician in any Graduate Medical Education program at UT Southwestern, including interns, residents, fellows, and subspecialty residents.

PREVIOUS HANDBOOK POLICY CHAPTER AND NUMBER

5.12.2 Sexual Harassment Policy and Procedure

HR Policy Memorandum 6.050 Sexual Harassment and Sexual Misconduct

RELATED STATUTES, OTHER POLICIES, REQUIREMENTS, OR STANDARDS

- ETH-151 Equal Opportunity
- ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure
- EDU-116 Sex Discrimination – Sexual Misconduct, Harassment, and Violence
- EDU-116P-01 Sex Discrimination Complaint and Resolution
- SEC-156 Violence on Campus
- Texas Labor Code Chapter 21
- Texas Family Code, Sections 71.0021, 71.004
- Texas Family Code Section 71.004
- Texas Penal Code, Section 42.072
- Title VII of the Civil Rights Act of 1964 (As Amended)

- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681
- Campus Sexual Violence Elimination Act (SaVE)
- Regents Rule 30105 Sexual Harassment and Misconduct and Inappropriate Consensual Relationships

REVISIONS AND UPDATES

June 5, 2015: Revised the procedures to clarify how to report known or suspected sexual harassment or sexual misconduct to UT Southwestern.

CONTACTS/FOR FURTHER INFORMATION

Office of Diversity & Inclusion and Equal Opportunity 214-648-4343

UT SOUTHWESTERN POLICY HANDBOOK

SEC-156: VIOLENCE ON CAMPUS

CHAPTER 4: CAMPUS SECURITY AND PREPAREDNESS

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ADMINISTRATIVE INFORMATION

Responsible Office: Office of Human Resources
Executive Sponsor: Executive Vice President of Business
Affairs
Effective Date: January 9, 2015
Last Reviewed: December 16, 2014
Revised : May 15, 2015
Next Scheduled Review: December 16, 2019
Contact: policyoffice@utsouthwestern.edu

POLICY RATIONALE AND TEXT

Campus Violence Prohibited

UT Southwestern does not tolerate campus violence, threats of violence, or intimidation. Conduct that may threaten the safety or well-being of individuals affiliated with UT Southwestern or the safety and security of UT Southwestern premises is prohibited. It is the policy of UT Southwestern to maintain a safe and secure campus; to educate employees, students, and trainees about violence awareness and prevention; and to provide support and resources to employees, students, and trainees who have been affected by violence, threats of violence, or intimidation.

Any individual who suspects, witnesses, or experiences campus violence, threats of violence, or intimidation is strongly encouraged to report the incident in accordance with the procedures outlined below. Every supervisor, administrator, and UT Southwestern official is responsible for promptly reporting incidents or threats of campus violence or intimidation that come to their attention. Any individual who engages in campus violence, threats of violence, or intimidation prohibited by this policy will be subject to disciplinary action, up to and including dismissal or non-renewal of appointment.

Examples of prohibited campus violence include but are not limited to:

- Intentionally striking, attempting to strike, or threatening to strike another individual, e.g., hitting, punching, slapping, kicking, elbowing, pushing, or shoving.
- Intentionally causing, attempting to cause, or threatening to cause physical harm or injury to another individual or the individual's family, friends, or co-workers.
- Intentionally causing, attempting to cause, or threatening to cause damage to UT Southwestern premises or property, or the property of another individual.
- Harassment and stalking.
- Committing, attempting to commit, or threatening to commit any act of sexual violence. See also ETH-154 Sexual

Harassment and EDU-116 Sex Discrimination - Sexual Misconduct, Harassment, and Violence.

- Unlawfully using or attempting to use a weapon or other dangerous device to cause harm to or threaten any individual or to cause or threaten property damage. See also SEC-155 Prohibition of Weapons on Campus.
- Intimidating, coercing, or attempting to intimidate or coerce another individual to engage in any act of campus violence prohibited by this policy.

Retaliation Prohibited

Retaliation is strictly prohibited. Any person who retaliates in any way against an individual who made a good faith report of campus violence under this policy or who utilized any of the UT Southwestern resources outlined herein for those affected by violence may be subject to disciplinary action, up to and including dismissal or non-renewal of appointment. An individual who believes that he or she has been subjected to retaliation in violation of this policy should submit a written complaint, setting out the details of the conduct that is the subject of the complaint, to the Office of Compliance.

Making a False Report or Providing False Information Prohibited

Any person who knowingly and intentionally makes a false report or provides false information regarding an incident of campus violence may be subject to disciplinary action, up to and including dismissal or non-renewal of appointment.

SCOPE

This policy applies to all UT Southwestern employees, individuals holding a faculty appointment, students, and trainees, as well as any individuals using UT Southwestern premises, services, or resources, or participating in UT Southwestern activities. It applies to conduct regardless of where or how it occurs, including off UT Southwestern premises or via telephonic or electronic means (e.g., text message, e-mail, Facebook, Twitter, Instagram, or instant messenger), if such conduct impacts the education, training, or working environment at UT Southwestern.

PROCEDURES (INCLUDING LINKS TO RELATED DOCUMENTS)

Reporting Campus Violence

Any individual who suspects, experiences, or witnesses campus violence should make a report in one or more of the following ways. Phone numbers and links are listed below under Contacts and Resources.

Reporting a Campus Violence Emergency: 911 or 214-648-8911

- In cases of emergency or imminent danger, individuals should contact University Police at 911 from a campus extension or at 214-648-8911 from a non-campus extension or by using the emergency blue-light call boxes or elevator phones. Emergencies would include criminal activity in progress (assault, use of a weapon, sexual violence), imminent bodily harm, or actual bodily harm.
- An employee who reports a campus violence emergency to University Police should also notify his or her supervisor as soon as is practicable.

Reporting Non-Emergency Campus Violence

Non-emergency incidents of campus violence should also be reported. Non-emergencies would include non-imminent threats or property damage.

Reports of non-emergency campus violence involving employees, volunteers, visitors, contractors, or vendors may be made to any of the following:

- The University Police's non-emergency phone number or via the online "Report a Crime" form.
- The immediate supervisor, or if the supervisor is unavailable or is the alleged offender, to the department vice

president, dean, or administrative equivalent.

- The Office of Compliance
- The Office of Human Resources

Reports of non-emergency campus violence involving students or trainees may be made as follows:

- The University Police's non-emergency phone number or via the online "Report a Crime" form.
- Students and trainees should also report non-emergency campus violence to the Office of the Vice President for Student and Alumni Affairs or to the appropriate administrative office:

Southwestern Medical School – Office of the Associate Dean for Student Affairs

Southwestern Graduate School – Office of the Dean

School of Health Professions – Office of the Dean

Office of Graduate Medical Education

Reporting Sexual Violence

- Incidents of sexual violence (including domestic violence, dating violence, sexual assault, and stalking) that occurred on campus should be immediately reported to University Police. Incidents of sexual violence occurring in other jurisdictions should be reported to the appropriate local law enforcement authority.
- Incidents of sexual violence (including domestic violence, dating violence, sexual assault, and stalking) involving students or trainees should also be reported to the Title IX Coordinator or a Deputy Title IX Coordinator, regardless of whether the victim intends to make a police report or pursue criminal charges. See EDU-116 Sex Discrimination - Sexual Misconduct, Harassment, and Violence and EDU-116P-01 Sex Discrimination Complaint and Resolution.
- Incidents of sexual violence (including domestic violence, dating violence, sexual assault, and stalking) involving employees, faculty, and any individual participating in UT Southwestern services, programs, or activities, including but not limited to patients, visitors, volunteers, contractors, and vendors, should also be reported to the Office of Diversity & Inclusion and Equal Opportunity, Division of Equal Opportunity, regardless of whether the victim intends to make a police report or pursue criminal charges. The Office of Diversity & Inclusion and Equal Opportunity, Division of Equal Opportunity should then report incidents of sexual violence (including domestic violence, dating violence, sexual assault, and stalking) to the Title IX Coordinator or a Deputy Title IX Coordinator. See [ETH-154 Sexual Harassment and Sexual Misconduct](#) and [ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure](#).

Protective or Restraining Orders

Anyone who has been issued a protective order, temporary restraining order, or restraining order that restricts an individual from entering UT Southwestern premises should notify University Police. If a violation of a protective or restraining order is committed on UT Southwestern premises, the violation should immediately be reported to University Police.

Domestic and Family Violence and Dating Violence

UT Southwestern acknowledges that domestic and family violence and dating violence can impact the education, training, and working environment and/or UT Southwestern employees, students, and trainees, even if the incidents occur off UT Southwestern premises or are perpetrated by individuals not affiliated with UT Southwestern. UT Southwestern strongly encourages any employee, student, or trainee who has been affected by domestic and family violence or dating violence to utilize the programs, services, and information available through the Contacts and Resources listed below.

Additional Resources

There are a variety of resources available through UT Southwestern for employees, students, and trainees who have been affected by any kind of campus violence. UT Southwestern also offers training and information about crime prevention and personal safety. UT Southwestern strongly encourages all employees, students, and trainees to utilize the programs, services, and information available through the Contacts and Resources listed below.

RESPONSIBILITIES

Every individual is responsible for reporting any instance – or potential instance – of campus violence, in accordance with this policy.

DEFINITIONS

Campus Violence – any action or behavior that may threaten the safety and well-being of another individual affiliated with UT Southwestern or the safety and security of UT Southwestern’s premises.

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Dating Violence – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim with consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include domestic violence.

Domestic and Family Violence – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the state of Texas.

Harassment – means any act intended to harass, annoy, alarm, abuse, torment, or embarrass another person, including making obscene comments; threatening to inflict bodily injury or property damage; repeated telephone calls, electronic, or written communications reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend the victim.

Information resources – all networks, software, equipment, facilities, and devices that are designed, built, operated, and maintained to collect, process, store, retrieve, display, or transmit UT Southwestern information.

Sexual Assault – a form of sexual violence that includes any offense that meets the definition of rape, fondling, incest, or statutory rape:

- a) *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b) *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

- c) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d) *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Violence – physical sexual acts perpetrated against a person’s will or where a person is incapacitated or otherwise incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:

- a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Students – individuals who are enrolled and in attendance at the UT Southwestern Medical School, the Graduate School of Biomedical Sciences, or the School of Health Professions.

Trainees – residents, fellows, and postdoctoral scholars appointed to academic training positions.

UT Southwestern Premises – any area owned, operated, leased, occupied, or controlled by UT Southwestern, including buildings and structures, grounds, parking structures, enclosed bridges and walkways, sidewalks, parking lots, and UT Southwestern owned or leased vehicles.

UT Southwestern Resources – a moveable tangible item placed into service for UT Southwestern operations, with the benefit of the item extending beyond one year from the date of the acquisition (e.g., furniture, modular furniture, equipment, computers, weapons, etc.), as well as intangible items such as information resources or intellectual property.

Weapon – includes a firearm, explosive weapon, machine gun, short-barrel firearm, firearm silencer, knuckles, armor-piercing ammunition, zip gun, chemical dispensing device (other than a small chemical dispenser sold commercially for personal protection), tire deflation device, illegal knife, switchblade knife, or club.

PREVIOUS HANDBOOK POLICY CHAPTER AND NUMBER

Not applicable.

RELATED STATUTES, OTHER POLICIES, REQUIREMENTS, OR STANDARDS

- Regents’ *Rule* 30103 Standards of Conduct
- EMP-351 Discipline and Discharge of Classified Employees
- EDU-151 Violations of Standards of Conduct
- EDU-116 Sex Discrimination – Sexual Misconduct, Harassment, and Violence
- EDU-116P-01 Sex Discrimination Complaint and Resolution
- SEC-155 Prohibition of Weapons on Campus
- ISR-104 Acceptable Use of Information Resources

- ETH-201 Protection from Retaliation
- ETH-154 Sexual Harassment and Sexual Misconduct
- ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure
- Chapter 261, Texas Health and Safety Code
- Chapter 48, Texas Human Resources Code
- Chapter 91, Texas Family Code
- Chapter 42, Texas Penal Code
- Chapter 261, Texas Family Code
- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681

REVISIONS AND UPDATES

December 2, 2015: Added guidance to report incidents of sexual violence to the Office of Diversity & Inclusion and Equal Opportunity, Equal Opportunity Division.

May 15, 2015: Revised the definitions of Consent, Dating Violence, Domestic and Family Violence, Sexual Assault, Sexual Violence, and Stalking to align with the model policy from the UT System Office of General Counsel.

CONTACTS AND RESOURCES

Campus-wide Resources

University Police

- On-Campus Emergency Number: 911
- Off-Campus Emergency/Cell Number: 214-648-8911
- On-Campus Non-Emergency Number: 88311
- Off-Campus Non-Emergency Number: 214-648-8311

"Report a Crime" via the University Police Crime Prevention web page

University Police Annual Security Report

UT Southwestern Emergency Response Guide

Office of Compliance 214-648-6024

Compliance Hotline 877-507-7319

The Compliance Hotline is a confidential third-party reporting service that operates 24 hours a day, 7 days a week, and 365 days a year. Calls can be made anonymously or you may leave your name. Allegations are forwarded to UT Southwestern and will be promptly investigated.

Title IX Coordinator or Deputy Title IX Coordinator

The Title IX Coordinators have specialized training and are knowledgeable about sexual violence, including domestic violence, dating violence, sexual assault and stalking. They can assist individuals affected by sexual violence with accessing campus and community resources and pursuing a complaint.

Employee Resources

Employee Assistance Program

- 214-648-5330 or toll-free at 800-386-9156
- Email: eap@utsouthwestern.edu

Office of Human Resources

- 214-648-9810
- Designated Employee Relations Representatives

Student and Trainee Resources

- Office of Student and Alumni Affairs: 214-648-5617
- Student Wellness and Counseling Services: 214-645-8690
- Southwestern Medical School – Office of the Associate Dean for Student Affairs: 214-648-2168
- Southwestern Graduate School – Office of the Dean: 214-648-0715
- School of Health Professions – Office of the Dean: 214-648-1500
- Office of Graduate Medical Education: 214-648-3433



| Institutional Handbook of Operating Procedures | |
|---|--|
| Policy 3.2.4 | |
| Section: Employee Policies | Responsible Vice President: Senior Vice President & General Counsel |
| Subject: Regulatory Compliance | Responsible Entity: UTMB Department of Internal Investigations Title IX Coordinator |

I. Title

Sexual Harassment and Sexual Misconduct Policy.

II. Policy

- A.** The University of Texas Medical Branch (UTMB) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act) which requires institutions to provide mechanisms for reporting specific crimes that occur on or near college campuses. Sexual misconduct is a form of sex discrimination and will not be tolerated. For purposes of this policy, the term “sexual misconduct” includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.
- B.** UTMB will take prompt disciplinary action against any individuals or organizations within its control that violate this Policy. UTMB encourages any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified in Section IV.

III. Applicability

This Policy applies to all UTMB administrators, faculty, staff, students, and third parties within the University’s control, including visitors and applicants for employment. Correctional Managed Care (“CMC”) employees are protected under this policy; however, reporting and investigations may differ from those outlined in this policy. It applies to conduct regardless of where it occurs, including off UTMB property, if it potentially affects the complainant’s education or employment with UTMB. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

IV. Filing a Complaint and Reporting Violations.

A. Title IX Coordinator

All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.

1. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit UTMB's ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.
2. Confidentiality. UTMB has an obligation to maintain an environment free of sex discrimination, thus many UTMB employees and faculty members have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section IV.D. below.
3. Timeliness of Complaint. Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.

B. Reporting Options for Correctional Managed Care Employees.

Correctional Managed Care employees should report incidents of sexual misconduct and other inappropriate sexual conduct to the appropriate Human Resources Regional Leader.

C. Responsible Employees.

1. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a UTMB employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, advisors, graduate teaching assistants, and faculty who have a responsibility for students in the following capacities: teaching; advising; coaching or mentoring; or supervising in a clinical setting. Employees with confidentiality obligations as defined in Section IV.D.¹ are not included in the definition of Responsible Employee.
2. Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the following website: <http://www.utmb.edu/studentservices/titleIX.asp>. If a Responsible Employee does not report incidents of alleged sexual harassment within three (3) business days to the Title IX Coordinator, he or she could be subject to disciplinary action, up to and including termination. A Responsible Employee must immediately report alleged acts of sexual violence to the Title IX Coordinator; any delay beyond 24 hours could result in disciplinary action, up to and including termination.

D. Reporting to Law Enforcement.

¹ For example, a student may make a complaint to an employee in the Dean of Students' Office, a faculty member or UTMB police. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report the complaint to the Title IX Coordinator or other appropriate designee.

1. Complaints of sexual misconduct may also be made to University of Texas Medical Branch at Galveston Police Department (UTMB Police Department) at (409) 772-1111 (non-emergency) or 911 (emergency) or to the City of Galveston Police Department at (409) 765-3600 (non-emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Coordinator can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the UTMB Police Department.
2. If a complaint of sexual misconduct is reported to the UTMB Police Department, it will advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and UTMB policy, the UTMB Police Department will also notify the Title IX Coordinator of the complaint, and provide the Title IX Coordinator or the individual investigating the complaint access to any related UTMB law enforcement records, so long as doing so does not compromise any criminal investigation.

E. Confidential Support and Resources.

Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in Counseling and Psychological Services, a health care provider in Health Services, the clergyperson of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator.

Community resources that provide such services are:

Resource & Crisis Center of Galveston County, Inc.
Local 24 Hour Hotline: 409-765-SAFE (7233)
Free 24 Hour Hotline: 7-888-919-SAFE (7233)
www.rccgc.org

F. Immunity.

In an effort to encourage reporting of sexual misconduct, UTMB may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this Policy.

G. Title IX Coordinator and Deputy Coordinator Contact Information.

Primary Office: Rebecca Sealy Suite 2.302
Other Office: Jamail Student Center. 2.126
Title IX Phone: 409-772-2112
Title IX Email: Title.IX@utmb.edu

H. Reporting to Outside Entities.

An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

Office for Civil Rights

U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
Phone: (214) 661-9600
FAX: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202
Phone: (800) 669-4000
FAX: (214) 253-2720

V. Parties' Rights Regarding Confidentiality.

- A.** UTMB has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.
- B.** In the course of the investigation, UTMB may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. UTMB will take all reasonable steps to ensure there is no retaliation against a complainant. UTMB will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. While UTMB cannot guarantee anonymity, UTMB will protect the privacy of all parties to a report of sexual misconduct, to the extent possible.

VI. Victim Resources.

A. Immediate Assistance.

[UTMB Police Department](#)
Emergency On Campus – 911
Emergency Off Campus – (409) 772-1111

1. Healthcare. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Emergency medical care can be provided at UTMB's Emergency Department or any other hospital emergency room.

[UTMB Emergency Department](#)

901 Harborside Drive
Galveston, Texas 77550

2. Sexual Assault Forensic Exam. Preserving DNA evidence is vital to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to UTMB's Emergency Department. UTMB's Emergency Department has registered SANE nurses who have been specifically trained to provide comprehensive care to sexual assault survivors.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

Medical care can be provided at UTMB's Student Health and Counseling (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by Student Health and Counseling (students), a referral from Student Health and Counseling, Employee Assistance Program (employees), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

3. Police Assistance. UTMB encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on UTMB campus, a report may be filed with the [UTMB Police Department](#) by calling (409) 772-2691 or in person at UTMB police headquarters in Rebecca Sealy 2.712 even if time has passed since the assault occurred.

UTMB Police can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a UTMB disciplinary hearing. If UTMB police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by the UTMB Police. A report may be filed with the UTMB police department even if the

assailant was not a UTMB student or employee. If the incident occurred in the City of Galveston, but off campus, a report may be filed with the Galveston Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

4. Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

Students desiring counseling should contact:

[Student Health & Counseling](#)

Lee Hage Jamaill Student Center – 3rd Floor

Monday – Friday, 8am to 5 pm – (409) 747-9508

After Hours Care - (409) 772-2222 or (800) 917-8906

Faculty and staff should contact:

[Employee Assistance Program](#)

(409) 772-2485 or (888) 870-8553

B. Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, UTMB will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination and retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, UTMB may be able to provide additional accommodations for a complainant while an investigation is pending.

VII. Intake Procedures and Protocol.

A. Key Officials in an Investigation.

1. Title IX Coordinator. The Title IX Coordinator is the senior UTMB administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain UTMB policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators.

Any member of UTMB community may contact the Title IX Coordinator with questions.

UTMB Department of Internal Investigations

Title IX Coordinator

Rebecca Sealy, Suite 2.302

(409) 772-2112

2. Investigators. The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Deputy Coordinators shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary.

B. Assessment of Complaint.

1. The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and notify the complainant of the methods of resolution which are appropriate based on the facts of the complaint. When both formal and informal resolution is appropriate, the complainant may opt to pursue informal resolution, but may elect to resolve the complaint formally at any point.
2. Informal resolution may be appropriate:
 - a) With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and
 - b) When both parties are categorically similar (i.e. employee/employee or student/student).

C. Notification of UTMB Offices Offering Assistance.

After receiving a complaint, the Title IX Coordinator or Deputy Coordinator will refer the complainant to Student Health and Counseling for students or Employee Assistance Program for employees for available resources and assistance.

D. Informal Resolution of Certain Sexual Harassment Complaints. (OPTIONAL)

1. Informal resolution is not permitted for sexual violence cases. A complainant with a complaint other than sexual violence may use this option instead of or before filing a formal complaint, but is not required to do so. Anyone who believes that he or she has been subject to sexual misconduct of any nature may immediately file a formal complaint as described in Section VII. E. of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Coordinator. The Title IX Coordinator will discuss the options available to the complainant dependent upon the allegations.
2. Informal Assistance. In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If the Title IX Coordinator or designee deems informal assistance appropriate, then the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating to the offending party that his or her behavior is unwelcomed and should cease, directing a UTMB official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However,

UTMB may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.

3. Timeframe. Informal resolutions should be completed no later than 10 business days after the Title IX Coordinator receives the request for informal resolution.
4. Confidentiality and Documentation. UTMB will document and record informal resolutions, which will be retained by the Title IX Coordinator in accordance with records retention requirements. If an individual's wish to remain anonymous limits the University's ability to establish facts and eliminate the potential harassment, UTMB will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

E. Formal Complaint and Investigation.

1. Formal Complaint. To begin the investigation process, the complainant should submit a, written statement which includes the following:
 - a) Complainant's name and contact information;
 - b) The name of the person directly responsible for the alleged violation;
 - c) A detailed description of the conduct or event that is the basis of the alleged violation;
 - d) The date(s) and location(s) of the occurrence(s);
 - e) The names of any witnesses to the occurrence(s);
 - f) The resolution sought; and
 - g) Any documents or information that is relevant to the complaint.
2. UTMB may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. If a UTMB office, other than the Department of Internal Investigations receives the complaint, it must be referred to the Title IX Coordinator, as soon as possible.
3. **Standard of Proof.**
All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.
4. Investigation Process.
 - a) An investigator will be assigned to investigate the complaint.
 - b) As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.
 - c) The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
 - d) Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions

that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other will have the same right.

- e) The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator or his/her supervisor.
- f) After the investigation is complete, a written report² will be issued to the Title IX Coordinator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report will include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a “preponderance of the evidence” standard).
- g) After the written report is completed, the complainant and respondent will receive notification of the outcome of the investigation in writing via email. The letter will summarize the findings of the investigation in compliance with FERPA and Texas Education Code, Section 51.971. The letter will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation or the findings. Each will have seven (7) business days from the date which the email was sent to submit written comments regarding the investigation to the Title IX Coordinator.
- h) Within seven (7) business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or his or her designee will:
 - (1) Request further investigation into the complaint;
 - (2) Dismiss the complaint based on a determination that no violation of policy or inappropriate conduct occurred; or
 - (3) Refer the matter for disciplinary action under the applicable disciplinary policies and procedures based on violation of UTMB policy in accordance with Section I. below.
- i) The complainant and the respondent will be informed concurrently in writing of the decision.
- j) The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

F. Timelines.

- 1. Barring any unforeseen and reasonable delays, UTMB will resolve complaints under this Policy no later than 60 calendar days after a Responsible Employee knew, or in the exercise of reasonable care should have known about the action on which the complaint is based. If the investigation and resolution exceeds 60 calendar days, UTMB will notify all parties in writing of the reason for the delay and the expected time frame for completion. . Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.
- 2. Delay for Investigation by Law Enforcement.

² Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

- a) At the request of law enforcement, UTMB may defer its fact-gathering until after the initial stages of a criminal investigation. UTMB will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. UTMB will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. UTMB will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.
- b) The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect UTMB's investigation of the complaint.

G. Remedies.

- 1. In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, UTMB will take appropriate action(s) to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects. These actions include but are not limited to:
 - a) Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
 - b) Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
 - c) Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
 - d) Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
 - e) Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
 - f) Determining whether sexual misconduct adversely affected the complainant's UTMB standing;
 - g) Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
 - h) Conducting, in conjunction with UTMB leaders, a UTMB climate check to assess the effectiveness of efforts to ensure that UTMB is free from sexual misconduct, and using that information to inform future proactive steps that UTMB will take;
 - i) Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
 - j) Issuing policy statements or taking other steps to clearly communicate that UTMB does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

2. These remedies are separate from, and additional to, any interim measures that may have been imposed prior to the completion of the investigation. If the complainant did not take advantage of a specific service (e.g., counseling) offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include previously declined services. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

H. Sanctions and Discipline.

1. Disciplinary action against faculty and employees will be handled under UTMB's policies for discipline and dismissal of faculty and employees, as follows:

- [IHOP Policy 3.1.9 Discipline, Dismissal, and Appeal for Classified Employees](#)
- [IHOP Policy 5.3.10 Termination](#)
- UTMB Police Officers are subject to disciplinary action in accordance with The University of Texas System Police Policy 208 Discipline and Appeal Procedure.

Disciplinary actions for individuals not covered under the above mentioned policies may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal.

2. The Student Affairs Dean of each school will impose disciplinary action, if any, against a student under [IHOP Policy 7.1.3 Student Conduct and Discipline](#). Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.
3. In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the "preponderance of the evidence," as defined in this policy.

VIII. Provisions Applicable to the Investigation.

- A. Assistance. During the investigation process, an advisor, who may be an attorney, may assist a complainant or respondent; however, the advisor may not actively participate in meetings or interviews.
- B. Time Limitations. The Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University may modify time limitations in these procedures.
- C. Concurrent Criminal or Civil Proceedings. UTMB will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. UTMB has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Section VII.F.2 above).

- D. Documentation. UTMB shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and UTMB policy.

IX. Dissemination of Policy and Educational Programs.

- A. This Policy will be made available to all UTMB administrators, faculty, staff, and students online at http://www.utmb.edu/policies_and_procedures/toc.aspx and in UTMB publications. Periodic notices will be sent to UTMB administrators, faculty, staff and students about UTMB's Sexual Harassment/Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about UTMB's disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.
- B. **Ongoing Sexual Misconduct Training.** The University's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained UTMB personnel. UTMB will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to UTMB administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise UTMB administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal complaint.
- C. **Training of Coordinators, Investigators, Hearing and Appellate Authorities.** All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals will receive training each academic year about offenses, investigatory procedures, due process, and UTMB policies related to sexual misconduct to ensure the safety of victims and promote accountability.

X. Additional Conduct Violations.

- A. **Retaliation.**
Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.
- B. **False Complaints.**
Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding of non-responsibility does not indicate a report was false.
- C. **Interference with an Investigation.**
Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:

1. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
2. Removing, destroying, or altering documentation relevant to the investigation; or
3. Providing false or misleading information to the investigator, or encouraging others to do so.

D. No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint.

The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated UTMB rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a UTMB employee. Nothing in this section limits UTMB's ability to take interim action.

XI. Documentation.

UTMB will confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator will document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

XII. Annual Reporting and Notice.

The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, UTMB will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related UTMB websites.

XIII. Definitions

Consent: A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.³

Dating Violence⁴: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined by the victim with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violence⁵: includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family

³ Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

⁴ Dating Violence is defined by the Texas Family Code, Section 71.0021 as: (a) an act, other than a defensive measure to protect oneself, by an actor that: (1) is committed against a victim: (A) with whom the actor has or has had a dating relationship; or (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault. (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of: (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship. (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b). Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

⁵ Family Violence is defined by the Texas Family Code Section 71.004 as: (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse, as that term is defined by Sections 261.001(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or (3) dating violence, as that term is defined by Section 71.0021.

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment: exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and UTMB visitors).

In determining whether sex-based harassment has created a hostile environment, UTMB considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, UTMB must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, UTMB considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, UTMB applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

Incapacitation: A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Intimidation: Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Other Inappropriate Sexual Conduct: Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

Preponderance of the Evidence: The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Responsible Employee: A UTMB employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, supervisory staff, advisors, and graduate teaching assistants, and faculty who have a responsibility for students in the following capacities: teaching; advising; coaching or mentoring; or supervising in a clinical setting. Employees with confidentiality obligations as defined in Section IV.D. are not included in the definition of responsible employee. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.

Retaliation: Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

Sexual Assault⁶: An offense that meets the definition of rape, fondling, incest, or statutory rape:

- a) *Rape:* the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b) *Fondling:* The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- c) *Incest:* Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d) *Statutory Rape:* Sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation: Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

⁶ Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

Sexual Harassment: Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in UTMB activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in UTMB activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in UTMB activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

- a) Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. Unwelcome intentional touching; or
 - ii. Deliberate physical interference with or restriction of movement.
- c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - i. Explicit or implicit propositions to engage in sexual activity;
 - ii. Gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. Gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. Persistent, unwanted sexual or romantic attention;
 - v. Subtle or overt pressure for sexual favors;
 - vi. Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - vii. Deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct: A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence: Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking⁷: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition--

⁷ Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:

- a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

XIV. Relevant Federal and State Statutes

- [Title IX of the Higher Education Amendments of 1972](#) (Title IX)
- [Title VII of the Civil Rights Act of 1964](#) (Title VII)
- [Campus Sexual Violence Elimination Act](#) (SaVE Act)

XV. Relevant System Policies and Procedures

- [The University of Texas System Police Policy 208 Discipline and Appeal Procedure](#)

XVI. Related UTMB Policies and Procedures

- [IHOP Policy 3.1.9 Discipline, Dismissal, and Appeal for Classified Employees](#)
- [IHOP Policy 5.3.10 Termination](#)

XVII. Dates Approved or Amended

| | |
|--|---|
| <i>Originated: 7/01/2015</i> | |
| <i>Reviewed with Substantive Changes</i> | <i>Reviewed without Substantive Changes</i> |
| | |
| | |

XVIII. Contact Information

UTMB Department of Internal Investigations
 Title IX Coordinator
 Rebecca Sealy, Suite 2.302
 (409) 772-2112

-
- i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
 - b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
 - c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

Policy Number: 59

Sexual Misconduct

Subject:

Reporting of sexual misconduct, including sexual harassment and sexual assault. The university's notice of nondiscrimination can be found in [HOOP Policy 183 Equal Opportunity, Discrimination and Harassment](#).

Scope:

Members of the university community, including employees, students, residents and other trainees, visitors, volunteers (including faculty appointed without salary), contractors, vendors, consultants, and observers, as well as applicants for employment or admission.

Date Reviewed: August 2015

Responsible Office: Human Resources; Office of Academic and Research Affairs

Responsible Executive: Vice President and Chief Human Resources Officer; Executive Vice President of Academic and Research Affairs

I. POLICY AND GENERAL STATEMENT

The University of Texas Health Science Center at Houston ("university") is committed to providing an academic environment free from discrimination, which includes all forms of sexual misconduct. Sexual misconduct will not be tolerated, and individuals who engage in such conduct will be subject to disciplinary action.

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the university has developed policies that prohibit sexual misconduct in all of its forms. These policies and the procedures to address alleged policy violations are applicable to all complaints or reports of sexual misconduct made by or against any member of the university community. These policies and procedures apply to conduct that affects the complainant's education or employment with the university regardless of where it occurs and regardless of the gender, gender identity, or sexual orientation of the complainant or the respondent.

The Associate Vice President for Academic and Research Affairs serves as the university's Title IX Coordinator. The Director, Human Resources serves as the university's Deputy Title IX

Coordinator. All activities related to prevention of sexual misconduct and responses to reports of sexual misconduct are jointly coordinated by the Title IX and Deputy Title IX

Coordinators. These activities may include the following:

- Communicating information to all university constituents regarding the protections afforded by Title IX and the process to file complaints;
- Coordinating university training regarding Title IX;
- Reviewing all university policies and procedures, when applicable, to ensure institutional compliance with Title IX;
- Coordinating with other offices of the university to ensure that complaints are addressed promptly and equitably and that investigations are carried out in compliance with university policies;
- Directing remediation as appropriate; and
- Initiating and conducting Title IX administrative reviews and campus climate surveys to assess the safety risk to the university's environment based on a pattern of behavior and directing intervention measures, as appropriate.

For purposes of this policy, references to the "Title IX Coordinator" will encompass the efforts of the Title IX Coordinator as well as his or her designee(s).

Any member of the university community who participates in proceedings under this policy regarding a complaint, response and/or investigation may not disclose any information or documents related thereto unless required to do so by law or university policy and only after consultation with the Office of Legal Affairs.

II. DEFINITIONS

Consent: A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent. Consent is not effective if it results from: (a) the use of physical force; (b) a threat of physical force; (c) intimidation, (d) coercion; (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to engage in sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

Hostile Environment: exists when sex-based harassment is sufficiently severe and pervasive to deny or limit the individual's ability to participate in or benefit from the university's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in the university community.

Other Trainees: Postdoctoral research fellows, clinical fellows, and visiting students participating in a university educational or training activity.

Preponderance of the Evidence: The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this policy. This standard is satisfied if the action is deemed more likely to have occurred than not based on the greater weight of the credible evidence.

Sexual Misconduct: A broad term encompassing a range of nonconsensual activity or unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature directed toward another individual. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex. The term includes:

- **Dating Violence:** Violence committed by a person who is or has been in a romantic or intimate relationship with the victim. The existence of such a relationship will be determined based on its length, type, and frequency of interaction of the persons involved. Dating violence includes physical or sexual abuse, or the threat of such abuse. It does not include acts covered under the definition of domestic (family) violence.
- **Domestic (Family) Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.
- **Sexual Assault:** An offense that meets the definition of rape, fondling, incest, or statutory rape:
 - *Rape:* the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - *Fondling:* The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - *Incest:* Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.
- **Sexual Harassment**: A form of sex discrimination that includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and/or conduct of a sexual nature when:
 - Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, education, student status or participation in university programs or activities; or
 - Submission to or rejection of such conduct by an individual is used as a basis for decisions pertaining to an individual's employment, education, student status or participation in university programs or activities; or
 - Such conduct would be regarded by a reasonable person as so severe and pervasive as to create an intimidating, hostile or offensive environment that substantially interferes with an individual's work, education, student status or participation in university programs or activities.
- **Stalking**: a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

III. PROCEDURE

The university encourages those who have experienced any form of sexual misconduct to report those offenses as soon as possible to the Title IX or Deputy Title IX Coordinator or Equal Opportunity Administrator as outlined in this policy. Delays in reporting can greatly limit the university's ability to stop the sexual misconduct, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.

Faculty, supervisors, administrators, university officials and Student Affairs Offices are required to report promptly to the Title IX Coordinator incidents of sexual misconduct that come to their attention. Faculty, supervisors, administrators, university officials and Student Affairs Offices should limit their interactions with the complainant regarding the reported incident while referring him or her to the appropriate resources. All other members of the university community who witness or are aware of suspected incidents of sexual misconduct should immediately report the incident as outlined in this policy. Such reports will be documented in writing by the Title IX Coordinator.

A. Reporting a Complaint

All incidents, reports, and complaints alleging that a member of the university community is a victim of sexual misconduct should be reported to the Title IX or Deputy Title IX Coordinator or the Equal Opportunity Administrator at 713-500-3131 or in person at UCT Suite 150. Complaints may also be reported via the Compliance hotline (1-888-472-9868) or [web](#)

[report](#). Upon receipt, the recipient of the report will review and forward the report to the Title IX Coordinator.

If violence is occurring or the threat of violence is immediate, 911 should be called. The university encourages those who have experienced sexual assault, domestic violence, dating violence, or stalking to report the offense immediately to The University of Texas Police – Houston (UTP-H) by calling 713-792-7867 (713-792-STOP).

Additionally, members of the university community with protective or restraining orders relevant to a complaint are encouraged to provide a copy to UTP-H. If a complaint of sexual misconduct is made to UTP-H, UTP-H shall advise the complainant of his or her right to file a complaint under this policy.

Upon receipt of a complaint, the Title IX Coordinator will provide the complainant with a written notice containing information regarding:

- his or her rights and options under this policy;
- the importance of preserving evidence that may assist in proving that a criminal offense occurred or that may be helpful in obtaining a protective order;
- available resources, such as support services, health, and mental health services;
- how to request changes in academic, living, or working situations or other protective measures; and
- an explanation of the university's disciplinary procedures in cases of sexual misconduct.

Additional information can be found at <https://www.uth.edu/hr/department/equal-opportunity/index.htm>.

1. Confidentiality

Individuals wishing to remain anonymous may report an alleged violation of this policy in any manner; however, electing to remain anonymous will limit the university's ability to collect evidence, take remedial action or otherwise fully address the alleged violation.

The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in confidence may contact a physical or mental health care professional, professional counselor, or pastoral counselor (including those who act in that role under the supervision of these individuals). Except as otherwise permitted or required by law, these professionals are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Student treatment and counseling records maintained by UTHealth Student Health & Counseling Services may be disclosed without the student's consent if the disclosure meets one of the exceptions to FERPA's general consent requirement. See HOOP 129, Educational Records.

Individuals filing a complaint under this policy with any other faculty, supervisor, administrator, university official, or Student Affairs Office may also ask that the complaint be considered confidential; however, the circumstances of the complaint will determine whether the request can be honored. Faculty, supervisors, administrators, university officials and Student Affairs Offices who receive a report of sexual misconduct are obligated to disclose the report to the Title IX Coordinator. The university may need to act to maintain campus safety, and the Title IX Coordinator may elect to move forward with resolving the complaint, regardless of the complainant's request for confidentiality, the manner in which a complaint is received, or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the Title IX Coordinator determines that a request for confidentiality cannot be granted, the complainant will be notified.

In the course of an investigation into a report or complaint, the university may share information only as necessary with people who have a legitimate need for that information and to fulfill the purposes of this policy and comply with applicable law. To the extent possible, the university will also protect the privacy of all parties involved in a report of sexual misconduct.

Confidential counseling services are available to all university employees, residents, and other trainees through the Office of Employee Assistance Programs at (713) 500-3327. Counseling services are available to students through Student Health and Counseling Services at (713) 500-5171.

2. Participation of Advocate or Assistant

During the complaint process, a complainant or respondent may be assisted by a person of his or her choosing; however, the person assisting may not examine witnesses or otherwise actively participate in meetings, proceedings or interviews.

3. Interim Measures

The Title IX Coordinator will work with the appropriate university office in determining what immediate and effective steps can be taken to end any sexual misconduct, prevent its recurrence, protect and minimize the burden for the parties, and/or ensure equal access to educational programs and activities when students, residents or other trainees are involved. This includes taking interim steps before, during, or after any investigation or disciplinary process, while protecting the rights of the involved parties. These interim steps may include, but are not limited to, no contact orders, modifying schedules or assignments, or suspension and barring from university property when it reasonably appears to the Title IX Coordinator that the continuing presence of one or more of the involved parties poses a potential danger to persons or property or a potential threat for disrupting any activity authorized by the university.

4. Concurrent Criminal or Civil Proceedings

In complaints involving potential criminal conduct, the Title IX Coordinator shall inform the complainant of his or her option to file a criminal complaint. Police and criminal or civil justice

procedures, findings, or outcomes are not determinative of either these grievance procedures or university disciplinary procedures.

In extraordinary circumstances, law enforcement may request that the university temporarily suspend its investigation. The Title IX Coordinator will consider such a request and make a determination upon consultation with the Office of Legal Affairs. The university will nevertheless communicate with both the complainant and respondent regarding rights under this policy, procedural options, the status of the investigation, and the availability of interim measures.

B. Resolving a Complaint

Anyone who believes that he or she has been subject to sexual misconduct may immediately file a complaint. The Title IX Coordinator will conduct a preliminary assessment of the complaint to determine whether this policy applies and whether a formal investigation will commence or an informal resolution is possible. In cases where the respondent is not under the control of the university, a full investigation may not be possible. However, interim measures may still be taken to the extent possible.

1. Informal Resolution

If both the complainant and the respondent consent to informal resolution, it may be appropriate for certain complaints or reports alleging sexual harassment. The Title IX Coordinator may suggest informal resolution after review of the initial complaint. Complainants may also contact the Title IX Coordinator for assistance in resolving the complaint informally prior to filing a formal complaint. The informal resolution option is not permitted for cases involving sexual assault, dating violence, domestic violence, or stalking.

If an informal resolution is reached, it will be documented in writing by the Title IX Coordinator and signed by the complainant and the respondent.

Informal resolutions should be completed no later than 10 business days after the Title IX Coordinator receives a request for informal resolution or otherwise initiates the process. The Title IX Coordinator will notify any other appropriate university office of the resolution. The university may take action, including disciplinary measures, to ensure an environment free of sexual misconduct. If an informal resolution is not reached, the facts of the complaint as well as the failure to reach an informal resolution shall be documented by the Title IX Coordinator, who shall then initiate an investigation under the formal resolution process.

2. Formal Resolution

To initiate the formal resolution process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the resolution sought; the names of any witnesses to the occurrence(s); and any documents or information relevant to the complaint. Any supervisor, faculty member, administrator, university official or Student Affairs Office receiving a written or verbal complaint must immediately contact the Title IX Coordinator. If the complaint is not in writing, the Title IX Coordinator should prepare a statement of what he or she understands the complaint to be.

C. Procedures for Investigations of Alleged Sexual Misconduct

1. The Title IX Coordinator will appoint one or more individuals to handle investigations arising from a complaint related to this policy.
2. The respondent shall be provided notice of the complaint and a summary of the allegations and allowed 7 business days to respond in writing. Upon request, the complainant may obtain a summary of the respondent's written response, if any.
3. The complainant and the respondent may present any evidence believed to be relevant to the complaint.
4. Persons thought to have information relevant to the complaint will be interviewed, and these interviews will be documented. University community members have a duty to participate in these investigations. Any person who knowingly and intentionally interferes with an ongoing investigation under this policy will be subject to disciplinary action, up to and including termination or dismissal.
5. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint or other notice, unless a justification for the delay has been presented to, reviewed and approved in writing by the Title IX Coordinator.
6. Upon completion of the investigation, the appointed investigator(s) will issue a written report to the Title IX Coordinator. The report shall include a summary of the investigation and the facts discovered during the investigation.
7. The complainant and the respondent shall be informed concurrently in writing of the investigation's completion and be provided access and adequate time to review the report. If a complaint involves a student(s), the parties will receive this information as permitted by law. Each will have 7 business days from the date of receipt to submit written comments to the Title IX Coordinator.
8. Within 7 business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator will review the report and will take one of the following actions based on a preponderance of the evidence: (1) require further investigation into the complaint; (2) issue a determination that the results of the completed investigation are inconclusive; or (3) issue a determination as to whether this policy was violated.

D. Disciplinary Actions

1. If the Title IX Coordinator determines that the sexual misconduct policy was violated, he or she will refer the matter to the appropriate administrator for disciplinary action in accordance with the applicable disciplinary procedures. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, probation, termination or dismissal.
2. Implementation of disciplinary action against employees will be handled in accordance with the applicable university policy and procedures, which may include HOOP 44, Faculty Reappointment and Non-Reappointment, HOOP 133, Faculty Termination, HOOP 153, Termination of Appointment: Administrative and Professional and/or HOOP 187, Discipline and Dismissal of Classified Employees.
3. Implementation of disciplinary action against a student will be handled in accordance with the university's student disciplinary procedures, as outlined in HOOP 186 Student Conduct and Discipline. The Title IX Coordinator will serve in place of the Dean in any student disciplinary hearing under this policy.
4. Both parties will receive equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the "preponderance of the evidence," as defined in this policy.
5. The complainant and the respondent will be provided simultaneous written notice of the result of any disciplinary proceedings (including the rationale for the decision and sanctions), applicable appeal procedures, any changes in the results and when the results become final.

E. Additional Remedies

In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the university may take appropriate action(s), including, but not limited, to those below:

1. Imposing sanctions against the respondent, including mandatory training attendance;
2. Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
3. Providing comprehensive, holistic victim services including medical, counseling and academic support services(e.g., tutoring);
4. Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
5. Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
6. Conducting, in conjunction with university leaders, a university climate check to assess the effectiveness of efforts to ensure that the university is free from sexual misconduct, and using that information to inform future proactive steps that the university will take;

7. Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a particular program, department or clinic. Bystander intervention and sexual misconduct prevention programs may be appropriate; and/or
8. Issuing policy statements or taking other steps to communicate clearly that the university does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

F. Retaliation

Members of the university community who retaliate in any way against an individual who has brought a request for resolution or a complaint pursuant to this policy or against an individual who has participated in an investigation of a complaint are subject to disciplinary action up to and including termination or dismissal. Reports of retaliation shall be made to and investigated by the [Office of Institutional Compliance](#). See [HOOP 108, Protection from Retaliation](#).

G. Time Limits and Exceptions

Time limits specified in this policy may be extended for good cause by the Title IX Coordinator with written notice to the complainant and respondent of the extension and the reason for the extension.

H. False Statements

Any person who recklessly or knowingly and intentionally files a false complaint under this policy or makes false statements in the course of an investigation is subject to disciplinary action up to and including termination or dismissal.

I. Dissemination of Policy and Education

This policy will be made available to all members of the university community online and in appropriate publications. All incoming employees, students, residents, other trainees, and volunteers (including faculty appointed without salary) will be provided training on this policy as well as risk reduction and bystander intervention. The university will also annually provide notices to employees, students, residents, other trainees, and volunteers (including faculty appointed without salary) regarding this policy, conduct that could constitute a violation of this policy, and information about available resources, such as support services, health services and mental health services. UTP-H will receive training on sexual misconduct policy and procedures, including their obligation to advise complainants of their option to file a complaint under these procedures, as well as to file a criminal complaint.

The Title IX and Deputy Title IX Coordinators, investigators, and any others with authority over investigations or disciplinary proceedings involving sexual misconduct shall receive training each academic year about offenses, investigatory procedures, due process, and university policies related to sexual misconduct.

IV. CONTACTS

| Contact | Telephone | Email/Web Address |
|--|------------------|--|
| Eric Solberg, Title IX Coordinator Office of Academic Affairs | 713-500-3062 | https://www.uth.edu/academics/ https://www.uth.edu/evpara/contact.htm |
| Karla Crabtree, Deputy Title IX Coordinator Human Resources | 713-500-3131 | https://www.uth.edu/hr/ |
| The University of Texas Police - Houston (UTP-H) | 713-792-2890 | http://www.mdanderson.org/utpd/utpd-police-services.html |

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| Section 4.2 | Employee Relations | Revised: | October 2015 |
| Policy 4.2.2 | Title IX Sexual Harassment/Sexual Misconduct Policy | Responsibility: | Vice President, Academic, Faculty and Student Affairs |

SEXUAL HARASSMENT/SEXUAL MISCONDUCT POLICY

**Section 1
General Policy
Statement**

1. The Institution of Texas Health Science Center (Health Science Center) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct is a form of sex discrimination and will not be tolerated. As stated in the definition, sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.
2. The Health Science Center will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The Health Science Center encourages any student, faculty, staff or visitor to promptly report allegations and/or violations of this Policy to an individual identified below in Section 3.2.

**Section 2
Applicability**

This Policy applies to all Health Science Center administrators, faculty, staff, students, trainees, and third parties within the Health Science Center's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off Health Science Center property, if it potentially affects the complainant's education or employment with the Health Science Center. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

**Section 3
Filing a Complaint
and Reporting
Violations**

1. All Members of the Health Science Center Community, Third Party and Anonymous Complaints. All administrators, faculty, staff, students, and third parties are strongly encouraged to

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immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Director. or Deputy Directors.

- a. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Director or a Deputy Director; however, electing to remain anonymous may greatly limit the Institutions ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.
 - b. Confidentiality. The Health Science Center has an obligation to maintain an environment free of sex discrimination, thus many Health Science Center employees have mandatory reporting and response obligations and may not be able to honor a complainant’s request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section 3.5.
 - c. Timeliness of Complaint. Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the Health Science Center’s ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.
2. Responsible Employees. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is an Institution employee who has the duty to report incidents of sexual misconduct to the Title IX Director or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5.¹

Responsible Employees can find contact information for the Title IX

¹ For example, a student may make a complaint to an employee in the Dean of Students’ Office, a faculty member or university police. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report the complaint to the Title IX Director or other appropriate designee.

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Director at the following website:

<http://students.uthscsa.edu/titleix/>

3. Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas System Police,, Health Science Center (University Police) at 210-567-2800 (non-emergency) or 210-567-8911 (emergency) or 911 (emergency) or to other local law enforcement authorities.ⁱⁱ The Title IX Deputy Directors can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police.

If a complaint of sexual misconduct is reported to the University Police, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police shall also notify the Title IX Director of the complaint, and provide the Title IX Director or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

4. Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

Office of Civil Rights
 U.S. Department of Education
 1999 Bryan Street, Suite 1620
 Dallas, TX 75201-6810-
 Phone: (214)661-9600
 Fax: (214) 661-9587

Employees may also contact the U.S. Equal Employment

ⁱⁱ Because of the multiple site locations where Health Science Center programs are conducted, reporting to law enforcement may include the San Antonio Police Department; Bexar County Sheriff's Department; Harlingen Police Department (956-365-8900); Cameron County Sheriff's Department; Edinburgh Police Department (956-316-7151); Hidalgo County Sheriff's Department; Laredo Police Department (956-523-7414); and Webb County Sheriff's Department.

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Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission
 Dallas District Office
 207 S. Houston Street, 3rd Floor
 Dallas, TX 75202
 Phone: (800) 669-4000
 Fax: (214) 253-2720

5. Confidential Support and Resources. Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), are generally prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in the Student Counseling Center, a health care provider in Student Health Center, the clergyperson of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Director. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Director. A listing of different Health Science Center and community resources that provide such services can be found through the Student Counseling Center, the Student Health Center, University Police, and the Office of Human Resources. The web links are:

[http://students.uthscsa.edu/counseling/;](http://students.uthscsa.edu/counseling/)

<http://utpolice.uthscsa.edu/divisions/crimeprev/resources.asp;>

<http://shc.uthscsa.edu/>

<https://www.uth.edu/uteap/index.htm>

6. Immunity. In an effort to encourage reporting of sexual misconduct, the Health Science Center may grant immunity from
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student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this Policy.

**Section 4
Parties' Rights
Regarding
Confidentiality**

The Health Science Center has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Director and/or a Deputy Director. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

In the course of the investigation, the Health Science Center may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. The Health Science Center will take all reasonable steps to ensure there is no retaliation against a complainant. The Health Science Center will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the Health Science Center will also protect the privacy of all parties to a report of sexual misconduct.

**Section 5
Victim Resources**

1. Immediate Assistance. A listing of different Health Science Center and community resources can be found through the Student Counseling Center, the Student Health Center, University Police, and the Office of Human Resources. The web links are:

[http://students.uthscsa.edu/counseling/;](http://students.uthscsa.edu/counseling/)

<http://utpolice.uthscsa.edu/divisions/crimeprev/resources.asp;>

<http://shc.uthscsa.edu/>

<https://www.uth.edu/uteap/index.htm>

- a. Healthcare. An individual who experiences any form of sexual,
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domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the nearest hospital that provides SAFE services.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

- b. Police Assistance. The Health Science Center encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on the Health Science Center campus, a report may be filed with the University Police by calling 210-567-2800 or in person at 7703 Floyd Curl Dr., San Antonio, TX, even if time has passed since the assault occurred.

The University Police can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a Health Science Center disciplinary hearing. If the University

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Police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by a police department counselor. A report may be filed with the University Police even if the assailant was not a Health Science Center student or employee. If the incident occurred off the Health Science Center campus in San Antonio, a report may be filed with the appropriate local law enforcement agency, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

- c. Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

Medical care can be provided at Student Health Center (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by the Student Counseling Center (students), Employee Assistance (employees), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

Students desiring counseling should contact:

Student Counseling Center
<http://students.uthscsa.edu/counseling/>
 210-567-2648

Faculty and staff should contact:

Employee Assistance Program
<https://www.uth.edu/uteap/index.htm>
 (713) 500-3327 or toll-free at (800) 346-3549

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2. Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, the Health Science Center will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment or paid administrative leave. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the Health Science Center may be able to provide additional accommodations for a complainant while an investigation is pending.

**Section 6
Intake Procedures
and Protocol**

1. Key Officials in an Investigation

a. Title IX Director. The Title IX Director is the senior Health Science Center administrator who oversees the Health Science Center's compliance with Title IX. The Title IX Director is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain Health Science Center policies and procedures, and provide education on relevant issues. The Title IX Director may designate one or more Deputy Title IX Directors.

Any member of the Health Science Center community may contact the Title IX Director with questions.

b. Investigators. The Title IX Director will ensure that complaints are properly investigated under this Policy. The Title IX Director will also ensure that investigators are properly trained

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at least annually to conduct investigations that occur under this Policy.

The Title IX Deputy Directors shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Director as necessary.

2. Assessment of Complaint.

The Title IX Director or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

- a. With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and
- b. When both parties are categorically similar (i.e. employee/employee or student/student).

3. Notification of Health Science Center Offices Offering Assistance.

After receiving a complaint, the Title IX Director or Deputy Director shall provide the complainant with referrals to available resources and assistance.

4. Informal Resolution of Certain Sexual Harassment Complaints.

A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he or she has been subject to sexual misconduct may immediately file a formal complaint as described in Section 3 of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Director.

- a. Informal Assistance. In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Director or designee, then the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and

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should cease, directing a Health Science Center official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, the Health Science Center may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.

- b. Timeframe. Informal resolutions should be completed no later than 10 business days after the Title IX Director receives the request for informal resolution.
- c. Confidentiality and Documentation. The Health Science Center will document and record informal resolutions. The Title IX Director will retain the documentation. If the individual's wish to remain anonymous limits the Health Science Center's ability to establish facts and eliminate the potential harassment, the Health Science Center will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

5. Formal Complaint and Investigation.

Formal Complaint. To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and

location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint. The Health Science Center may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. The Health Science Center office receiving the complaint should refer the complaint to the Title IX Director.

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Investigation.

- a. An investigator will be assigned to investigate the complaint.
- b. As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.
- c. The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
- d. Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- e. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Director or his/her supervisor. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- f. After the investigation is complete, a written reportⁱⁱⁱ will be issued to the Title IX Director and the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a “preponderance of the evidence” standard).

ⁱⁱⁱ Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

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- g. After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at the Institution's discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have 7 business days from the date of receipt (as indicated on the return receipt) to submit written comments regarding the investigation to the Title IX Director.
 - h. Within 7 business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Director or his or her designee will:
 - request further investigation into the complaint;
 - dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or
 - find that the Policy was violated. A decision that the Policy was violated shall be based on the record.
 - i. If the Title IX Director or his or her designee determines that the Policy was violated, he or she will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).
 - j. The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with Section 6.5.g of this Policy.
 - k. The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

6. Standard of Proof

All investigations under this Policy will use the preponderance of

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the evidence standard to determine violations of this Policy.

7. Timelines

Barring any unforeseen and reasonable delays, the Health Science Center will endeavor to resolve complaints under this Policy no later than 60 calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60 calendar days, the Health Science Center will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the Health Science Center may defer its fact-gathering until after the initial stages of a criminal investigation. The Health Science Center will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The Health Science Center will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. The Health Science Center will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the Health Science Center’s investigation of the complaint.

8. Remedies

In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the Health Science Center will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

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- a. Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
 - b. Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
 - c. Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
 - d. Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
 - e. Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
 - f. Determining whether sexual misconduct adversely affected the complainant's Institution standing;
 - g. Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
 - h. Conducting, in conjunction with Institution leaders, a Health Science Center climate check to assess the effectiveness of efforts to ensure that the Health Science Center is free from sexual misconduct, and using that information to inform future proactive steps that the Health Science Center will take;
 - i. Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
 - j. Issuing policy statements or taking other steps to clearly communicate that the Health Science Center does not tolerate sexual misconduct and will respond to any incidents and to
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any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the Health Science Center’s investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

9. Sanctions and Discipline

Disciplinary action against faculty and employees will be handled under the Health Science Center’s policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. Under a School’s policy for academic and professional conduct, the Associate Dean of Student Affairs in each school will impose disciplinary action, if any, against a student under the Health Science Center’s student disciplinary procedures, as appropriate and consistent with the School’s policies and protocols. A School Dean may delegate to another School official this responsibility. Student disciplinary actions may include, but are not limited to,

probation, suspension, or expulsion.

For students, if the finding of the report from the Title IX Director falls outside of the academic and professional conduct standards of a school, the Office of the Vice President, Academic, Faculty and Student Affairs will impose disciplinary action. Student policies may be found at: <http://catalog.uthscsa.edu/>

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the “preponderance of the evidence,” as defined in this policy.

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**Section 7
Provisions
Applicable to the
Investigation**

1. Assistance. During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.
2. Time Limitations. Time limitations in these procedures may be modified by the Title IX Director or appropriate administrator on a written showing of good cause by the complainant, respondent, or the Health Science Center.
3. Concurrent Criminal or Civil Proceedings. The Health Science Center will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The Health Science Center has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Sec. 6.7).
4. Documentation. The Health Science Center shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and Health Science Center policy.

**Section 8
Dissemination of
Policy and
Educational
Programs**

1. This Policy will be made available to all Health Science Center administrators, faculty, staff, and students online at <http://students.uthscsa.edu/titleix/> and in Health Science Center publications. Periodic notices will be sent to Health Science Center administrators, faculty, staff and students about the Health Science Center’s Sexual Harassment/Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about Health Science Center disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.
2. Ongoing Sexual Misconduct Training. The Health Science Center’s commitment to raising awareness of the dangers of

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sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained Health Science Center personnel. The Health Science Center will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to Health Science Center administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise Health Science Center administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal complaint.

3. Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Directors, Deputy Directors, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training annually about offenses, investigatory procedures, due process, and Health Science Center policies related to sexual misconduct.

**Section 9
Additional
Conduct
Violations**

1. Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the Health Science Center.
2. False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the Health Science Center. A finding of non-responsibility does not indicate a report was false.
3. Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the Health Science Center.

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Interference with an ongoing investigation may include, but is not limited to:

- a. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
 - b. Removing, destroying, or altering documentation relevant to the investigation; or
 - c. Providing false or misleading information to the investigator, or encouraging others to do so.
4. No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including:
- a. any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated Health Science Center rules or policies;
 - b. any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or
 - c. any job-related functions of a Health Science Center employee. Nothing in this section shall limit the Health Science Center's ability to take interim action.

**Section 10
Documentation**

The Health Science Center shall confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Director will document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

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**Section 11:
Annual Reporting
and Notice**

The Health Science Center’s Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, the Health Science Center will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Director and Deputy Directors, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related Health Science Center websites.

**Definitions and
Examples**

CONSENT: A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from:

- the use of physical force,
- a threat of physical force,
- intimidation,
- coercion,
- incapacitation or
- any other factor that would eliminate an individual’s ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that

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clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.^{iv}

DATING VIOLENCE^v: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- The length of the relationship;
- The type of relationship; and
- The frequency of interaction between the persons involved in the

^{iv} Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

^v Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
 - (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
 - (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

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relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

DOMESTIC (FAMILY) VIOLENCE^{vi}: includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated

to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

HOSTILE ENVIRONMENT: exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the Health Science Center's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a Health Science Center's program or activity (e.g., administrators, faculty members, employees, students, and Health Science Center visitors).

In determining whether sex-based harassment has created a hostile environment, the Health Science Center considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the Health Science Center must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

^{vi} Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001](#)(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#).

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

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To ultimately determine whether a hostile environment exists for an individual or individuals, the Health Science Center considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including:

- the type, frequency, and duration of the conduct;
- the identity and relationships of the persons involved;
- the number of individuals involved;
- the location of the conduct and the context in which it occurred; and
- the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The Health Science Center's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the Health Science Center applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

INCAPACITATION: A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

INTIMIDATION: Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct,

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but without displaying a weapon or subjecting the victim to actual physical attack.

OTHER INAPPROPRIATE SEXUAL CONDUCT: Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

PREPONDERANCE OF THE EVIDENCE: The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

RESPONSIBLE EMPLOYEE: A Health Science Center employee who has the duty to report incidents of sexual misconduct to the Title IX

Director or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.

RETALIATION: Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

SEXUAL ASSAULT^{vii}: An offense that meets the definition of rape, fondling, incest, or statutory rape:

^{vii} Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or

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- *Rape:* the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - *Fondling:* The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - *Incest:* Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - *Statutory Rape:* Sexual intercourse with a person who is under the statutory age of consent.

SEXUAL EXPLOITATION: Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

SEXUAL HARASSMENT: Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in Health Science Center activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's

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- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
 - c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.
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education, employment, or participation in Health Science Center activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in Health Science Center activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

- Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - ❖ unwelcome intentional touching; or
 - ❖ deliberate physical interference with or restriction of movement.
- Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - ❖ explicit or implicit propositions to engage in sexual activity;
 - ❖ gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - ❖ gratuitous remarks about sexual activities or speculation about sexual experiences;
 - ❖ persistent, unwanted sexual or romantic attention;
 - ❖ subtle or overt pressure for sexual favors;
 - ❖ exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or

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❖ deliberate, repeated humiliation or intimidation based upon sex.

SEXUAL MISCONDUCT: A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

SEXUAL VIOLENCE: Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

STALKING^{viii}: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition—

- *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through

^{viii} Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

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third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

- *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Relevant Federal and State Statutes and Standards

[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11](#)

[Clery Act, 20 U.S.C 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

[FERPA Regulations, 34 C.F.R. Part 99](#)

Other Relevant Policies, Procedures, and Forms

[Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships](#)

[University of Texas System Administration Systemwide Policy \(UTS 184\), Consensual Relationships](#)

[Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member](#)

System Administration Office Responsible for Policy

Office of General Counsel
ogc_intake@utsystem.edu

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Dates Approved or Amended

System Policy: April 6, 2015; February 21, 2012
 Health Science Center Policy: June 2015; November 2000

Contact Information

Office of the Vice President, Academic, Faculty and Student Affairs
 210-567-2004

Office of Human Resources
 210-567-2600



SEXUAL HARASSMENT AND SEXUAL MISCONDUCT PREVENTION POLICY

PURPOSE

The purpose of this policy is to:

- Inform persons covered by this policy that The University of Texas MD Anderson Cancer Center (MD Anderson) will not tolerate Sexual Misconduct in the workplace and learning environment,
- To identify resources available to those subjected to Sexual Misconduct, and
- To outline options for addressing concerns about Sexual Misconduct.

Note: Sexual Harassment is a form of Sexual Misconduct.

POLICY STATEMENT

In accordance with Title VII of the Civil Rights Act of 1964, as amended, and Title IX of the Education Amendments of 1972, MD Anderson is committed to the principle that the working environment of the institution should be free from inappropriate conduct of a sexual nature. Sexual Misconduct and Sexual Harassment are unprofessional behaviors and Workforce Members and Students who engage in such behavior are subject to disciplinary action, including termination. MD Anderson will act to stop such behavior in the employment or educational environment even if the incident involves non-employees, such as visitors.

SCOPE

This policy applies to all full-time and part-time Workforce Members and Students, and applies to conduct regardless of where it occurs, including off MD Anderson property if it potentially affects an individual's employment, educational environment, or opportunities at MD Anderson.

The policy applies regardless of gender, sexual orientation or gender identity or expression, and to individuals affected directly or as a third-party. It also applies to incidents involving parties of the same sex. Applicants may file a complaint under this policy.

Compliance with this policy is the responsibility of all Workforce Members and Students.

TARGET AUDIENCE

The target audience for this policy includes, but is not limited to, all Workforce Members and Students.

DEFINITIONS

EEO and HR Regulations: The department responsible for investigating allegations of discrimination, harassment and Retaliation. EEO and HR Regulations can be reached at 5-myHR or 713-745-6947.

Complainant: A party, including possibly MD Anderson, who makes a complaint of Sexual Harassment or Sexual Misconduct under section 3.0 of this policy.

Other Inappropriate Sexual Conduct: Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of Sexual Harassment but is unprofessional, inappropriate for the employment or educational environment and is not protected speech. It also includes consensual sexual conduct that is unprofessional in the employment and educational environment.

Respondent: A party who has been accused of committing an act of Sexual Harassment or Sexual Misconduct by a Complainant.

Retaliation: Any adverse action threatened or taken against someone because the individual has filed, supported, provided information in connection with a complaint of Sexual Misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to intimidation, threats or harassment against any Complainant, witness, or third party.

Sexual Harassment: Sexual Harassment includes:

Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment or appointment or for participation in any other academic or employment-related activity;
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment or appointment decisions affecting such individual;
- C. Such conduct is sufficiently severe or pervasive that it denies or limits an individual's education, employment, or participation in MD Anderson activities, or creates a reasonably objective hostile environment. To determine whether a hostile environment exists, MD Anderson considers a variety of factors related to the severity or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more individual's education or employment. Sexual harassment is a form of sex discrimination that includes the following examples:
 - Sexual violence, sexual assault, stalking, domestic violence and dating violence. Specific definitions of these terms are contained in Attachment A.
 - Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - Unwelcome intentional touching; or
 - Deliberate physical interference with or restriction of movement
 - Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic ideas, including oral, written, or symbolic expression, including but not limited to:
 - Explicit or implicit propositions to engage in sexual activity

- Gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies
- Gratuitous remarks about sexual activities or speculation about sexual experiences
- Persistent unwelcome sexual or romantic attention
- Subtle or overt pressure for sexual favors
- Gratuitous use of sexually-oriented materials not directly related to the subject matter of a class or meeting even if not objected to by those present; or
- Deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct: A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The terms includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, Sexual Harassment, domestic violence, dating violence, and stalking. See [Supplemental Definitions](#) for specific definitions of these terms.

Title IX Coordinator: MD Anderson's designated Title IX Coordinator has primary responsibility for coordinating MD Anderson's efforts to comply with and carry out its responsibilities under Title IX, which prohibits sex discrimination in all of its operations.

Sheri Wakefield, Title IX Coordinator

Director of EEO & HR Regulations

Mid Campus Building 1 (1MC6.2278)

7007 Bertner, Unit 1612

Houston, TX 77030

Phone: (713) 745-6174 office

Email: sbrownlo@mdanderson.org

Student: An individual who is enrolled in or admitted to MD Anderson School of Health Professions. This also includes individuals who have submitted an application for admission.

Trainee: An individual holding an educational appointment through Academic & VISA Administration regardless of compensation status or benefits eligibility.

Workforce Member: Faculty, administrative/classified employees, volunteers, Trainees, Students, contractors, and other persons whose conduct, in the performance of work for or academic studies at MD Anderson, is under the direct control of MD Anderson, whether or not they are paid by MD Anderson.

Note: For purposes of this policy, Students are referred to separately even though they are included within the definition of Workforce Member.

PROCEDURE

1.0 Overview

- 1.1 As outlined in detail below, there are many resources and options available to support Workforce Members and Students impacted by a violation of this policy to address their concerns. Such individuals may contact local law enforcement agencies or The University of Texas Police Department (UTP-H). Additionally, Workforce Members and Students may utilize

local crises intervention or counseling services, or MD Anderson's Employee Assistance Program. If an individual wishes, he or she may also file a Complaint with MD Anderson that will be appropriately investigated. If there is a finding that the policy was violated, appropriate action will be taken.

- 1.2 In deciding what options to use, the Workforce Members and Students should consider the degree of confidentiality that can be maintained with each option. As discussed below, confidentiality can be strictly maintained under some options while under others there is an obligation to report possible violations of this policy. Insistence on anonymity may limit MD Anderson's ability to respond fully to the incident.
- 1.3 Workforce Members and Students should also be aware that MD Anderson can take appropriate interim safety measures to protect a Workforce Member or Student. Finally, Workforce Members and Students who raise concerns about Sexual Harassment or Sexual Misconduct may not be retaliated against. A Workforce Member or Student who retaliates in any way against an individual for filing a complaint or participating in an investigation or adjudication is subject to discipline.
- 1.4 If you have any questions or you would like to discuss Title IX or this policy, you may contact the Title IX Coordinator or EEO and HR Regulations.

2.0 Crisis and Support Services

- 2.1 Victims of sexual violence and anyone who is concerned about his or her personal safety should immediately call 911 for local police assistance or 2-STOP (713-792-7868) for UTP-H.

Bastrop and Smithville campus employees may contact the Bastrop County Criminal District Attorney or Victim Assistance Coordinator at 804 Pecan Street, in Bastrop. Business hours are 8:00 am to 5:00 pm, M-F. They can be reached at 512-581-7125.

- 2.2 Additional community resources available for men and women are:
 - A. Houston Area Women's Center - Services for survivors of domestic and sexual violence, and their non-offending family and friends. Services include 24 hour hotlines, counseling, and urgent referrals to shelters.
 - Domestic violence hotline: 713-528-2121.
 - Sexual assault hotline: 713-528-7273.
 - Web site: <http://www.hawc.org>.
 - B. Crisis Intervention of Houston - Confidential and anonymous services for any crisis event. Services include 24 hour crisis hotlines:
 - Crisis hotline: 713-HOTLINE
 - Spanish hotline: 713-526-8088
 - Teen hotline: 713-529-TEEN
 - Web site: <http://www.crisishotline.org>.
 - C. Bastrop Family Crisis Center - Services to individuals who have been impacted by domestic and sexual violence, including a 24 hour hotline. They also arrange referrals to a local shelter.

- 24 hour hotline: 888-311-7755, or 512-303-7755.
- Daytime number: 512-321-7760.
- Web site: <http://www.family-crisis-center.org/>.

2.3 An individual who is eligible for services may contact the following MD Anderson resources to obtain guidance, support, and resources. If requested, assistance in resolving Sexual Harassment and Sexual Misconduct informally, such as strategies to effectively inform an individual to stop the offending behavior or action by an appropriate MD Anderson official to stop the unwelcomed conduct, may also be provided. These offices will not reveal any personal identifying information about an incident to the Title IX Coordinator or EEO and HR Regulations unless permission is granted.

Employee Assistance Program (EAP) – The EAP provides confidential services for employees, Trainees, and Students. Immediate help and referral information is also available to victims of abuse and to individuals who have been abusive towards others. The EAP can be reached by telephone at 713-745-6901.

Bastrop and Smithville campus employees may also access EAP services by calling the Houston office at 713-745-6901, or 877-259-9876, during business hours, 7:30 a.m.–4:30 p.m. M-F.

Faculty Assistance Program - Faculty may also contact an external provider for help with any personal and work-related stresses.

- 2.4 An individual who experiences any form of sexual violence is encouraged to seek immediate medical care and to preserve DNA evidence that can be key to identifying the violator. A medical exam to preserve physical evidence can be conducted with or without police and should be done immediately whenever possible.
- 2.5 Services offered under subsections 1.2 and 1.3 may be used prior to filing a formal complaint or as an alternative. While use of these services is encouraged, it is not required. A formal complaint under section 3 may be filed immediately.

3.0 Anonymity and Confidentiality

- 3.1 When considering reporting options, individuals subjected to Sexual Harassment should be aware that certain personnel can maintain strict confidentiality. Others may disclose non-personally identifying information. While others, such as those identified in subsection 4.1(A), have a mandatory reporting and response obligation.
- 3.2 When filing a complaint, a Complainant may request confidentiality. In considering whether to grant such a request, the Title IX Coordinator will balance a Complainant's request for confidentiality with the responsibility of providing a safe and non-discriminatory environment for the MD Anderson community.
- 3.3 Insistence on confidentiality may limit MD Anderson's ability to respond fully to the incident, including pursuing disciplinary action against the accused individual. Where action cannot be taken directly against a Respondent because of a Complainant's insistence of confidentiality, MD Anderson will pursue other steps to limit the effects of the alleged Sexual Harassment and Sexual Misconduct and attempt to prevent its recurrence.
- 3.4 Regardless if a request for confidentiality is granted or not, MD Anderson will protect the confidentiality of a Complainant by refusing to disclose his or her information to anyone outside of MD Anderson to the maximum extent permitted by law and only sharing necessary information with MD Anderson personnel on a need-to-know basis.

- 3.5 If UTP-H or the 2-Stop Team determines that the accused individual poses a serious and immediate threat to others, a timely warning may be issued. Any such warning would not include any information that identifies the victim.
- 3.6 An individual who initially requests confidentiality may later decide to file a complaint under Section 4.0 of this policy or report the incident to local law enforcement to have the incident fully investigated.

4.0 Report Incident and Filing a Complaint

- 4.1 Persons covered by this policy who believe they have been subjected to Sexual Harassment or Sexual Misconduct, may file a complaint or report as provided below. Reports should be made as soon as possible after the alleged conduct occurs as a delay may impede the ability to collect evidence, conduct an investigation and/or to take appropriate remedial actions.

- A. MD Anderson Workforce Members and Students should report the incident to EEO and HR Regulations or the Title IX Coordinator.

Complaints may also be reported to the following responsible employees:

- For employees, his or her manager, supervisor, Department Chair, any management personnel or their assigned Human Resources Consultant in the Generalist Organization (HRGO).
- For Trainees, their academic program director or the Office of the Associate Vice President for Academic and VISA Administration (AVP/AVA).
- For Students, the Dean of the SHP, Program Directors, the Senior Health Educator, or SHP faculty.

If the person to whom harassment normally would be reported is the individual accused, reports may be made to another manager, academic program director, or responsible employee. Complaints against a Title IX Coordinator or an employee of EEO and HR Regulations may be filed with the Vice President and Chief Compliance Officer, Phone: 713-745-6636.

- B. Cases of sexual violence may be reported by:

- Calling from an MD Anderson telephone - 2-2890 (UTP-H non-emergency) or 911 (UTP-H emergency); or
- Calling from an external telephone – 713-792-2890 (UTP-H non-emergency); 713-884-3131 (City of Houston non-emergency), or 911 (City of Houston emergency); or
- Calling other local law enforcement authorities.

If requested, EEO and HR Regulations can assist individuals with contacting these law enforcement agencies. Workforce Members and Students with protective orders relevant to a complaint are encouraged to provide a copy to UTP-H. A Workforce Member or Student may elect to not file a criminal complaint.

- C. Inquiries or complaints that involve potential violations of Title IX may also be submitted to the U.S. Department of Education's Office for Civil Rights, located at 1999 Bryan St., Suite 1510, Dallas, TX 75201-3136 and can be reached by phone at 404-974-9450 or fax (214-661-9594). Inquiries or complaints that involve potential violations of Title VII may also be submitted to the U.S. Equal Employment Opportunity Commission District

Office located at Total Plaza, 1201 Louisiana St., 6th Floor, Houston, Texas 77002,
Phone: 1-800-669-4000, Fax: 713-651-4987.

- 4.2 Before a Complainant reveals information that he or she may wish to keep confidential, the responsible employees designated in subsection 4.1(A) should make every effort to ensure that the Complainant understands: (i) the responsible employee's obligation to report the names of the Respondent and Complainant, as well as relevant facts regarding the alleged incident (including the date, time, and location) to the HRGO or EEO and HR Regulations, (ii) the Complainant's option to request confidentiality, which the Title IX Coordinator will determine, (iii) the Complainant's ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services, and (iv) the right to file a complaint with MD Anderson and to report a crime to UTP-H or local law enforcement.
- 4.3 The individuals designated in subsection 4.1(A) must notify the HRGO or EEO and HR Regulations of any reported Sexual Harassment or Sexual Misconduct as soon as they become aware of the alleged incident.
- 4.4 Any MD Anderson official responsible for reporting or responding to Sexual Harassment complaints who knew or reasonably should know of possible Sexual Harassment (including from social networking sites) and took no action to stop it or failed to report the prohibited act may be subject to disciplinary action.
- 4.5 Any Workforce Member or Student who receives information regarding a possible violation of this policy should report the information to individuals identified in subsection 3.1(a) as soon as possible.
- 4.6 An EEO representative will contact the Complainant as soon as reasonably possible, but no later than five (5) calendar days, to acknowledge receipt of the complaint and to schedule an intake meeting to discuss the details of the alleged sexual incident.
- 4.7 Throughout the Complaint and investigation process, a Complainant or Respondent may be accompanied by an individual providing support to the extent permitted by [Family Education Rights and Privacy Act \(FERPA\)](#). The supporter may not actively participate in a meeting or interview.
- 4.8 The complaint is supported by a written statement containing information provided by the person making the complaint. Information documented usually includes: the name of the person making the complaint, the nature of the complaint, the name of Respondent, date(s) of the alleged incident(s), and names of any witnesses or persons having knowledge about the complaint.
- 4.9 While an investigation may begin on the basis of an oral complaint, the Complainant is strongly encouraged to file a written complaint. In this situation, EEO and HR Regulations will prepare a statement of what he or she understands the complaint to be and seek to obtain verification of the complaint from the Complainant.
- 4.10 EEO and HR Regulations will provide a copy of this policy, the [Clery Act Policy on Reporting Criminal Activity \(UTMDACC Institutional Policy # ADM1104\)](#), and the [AVA-Trainee Disciplinary Actions and Appeals Policy \(UTMDACC Institutional Policy # ACA0068\)](#) to the Complainant, discuss the contents and the procedures involved in conducting an investigation of the alleged sexual incident, including confidentiality and anti-retaliation provisions, and identify additional resources available to the Complainant.
- 4.11 EEO and HR Regulations will facilitate the arrangement of any interim safety measures as appropriate, pending the outcome of the complaint and investigation. These measures may include changing work or class locations, rescheduling an assignment or test, altering

academic schedules, withdrawing from or retake a class without penalty, issuing a no contact directive, increased supervision or monitoring, security escorts, and free counseling services.

- 4.12 In cases involving potential Sexual Violence or criminal conduct, EEO and HR Regulations shall determine, in consultation with UTP-H, if criminal authorities need to be notified and will advise the Complainant of his or her rights regarding filing a criminal complaint. EEO and HR Regulations shall consult with UTP-H and law enforcement regarding the applicability and issuance of orders of protection, "no contact" orders, restraining orders, or similar lawful orders.
- 4.13 Upon request of law enforcement, the commencement of an investigation may be delayed temporarily until after the initial stages of criminal investigation. Police and criminal or civil justice procedures, findings, or outcomes are not determinative of either these complaint procedures or institutional disciplinary procedures. Additionally, MD Anderson will not wait for criminal or civil justice outcomes to take appropriate action.
- 4.14 UTP-H Responsibilities:
 - A. In cases where an incident of a sexual nature is reported to UTP-H, the police will advise the alleged victim of his or her right to file a complaint under this policy.
 - B. UTP-H will provide EEO officials investigating Complaints under this policy access to any related law enforcement records as permitted by state and federal law to the extent such access does not compromise any criminal investigation.
 - C. (c) To the extent possible, EEO and HR Regulations should coordinate with any other ongoing or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator.

5.0 Investigation, Determination and Appeals of Complaints

- 5.1 EEO and HR Regulations investigate the complaint of alleged Sexual Harassment or Sexual Misconduct following a determination that an investigation is warranted.
- 5.2 All Workforce Members and Students are expected to cooperate in investigations of alleged Sexual Harassment or Sexual Misconduct. Any person who knowingly makes false statements or inappropriately discloses confidential information during an investigation will be subject to disciplinary action, up to and including termination.
- 5.3 The Complainant and Respondent may present any document, witness or information that is believed to be relevant to the Complaint.
- 5.4 The investigation of a Complaint will be concluded as soon as possible after receipt of the written complaint. The Complainant and necessary parties will be provided updates on the progress of an investigation exceeding thirty (30) days. Anticipated resolution of a Complaint is not more than sixty (60) days.
- 5.5 The detailed procedure for investigating, determining, and appealing a Complaint is contained in the [Sexual Harassment / Sexual Misconduct Complaint Resolution Procedures](#). The parties will be provided an opportunity to comment on the proposed findings and actions, if any.
- 5.6 Upon completion of the [Sexual Harassment / Sexual Misconduct Complaint Resolution Procedures](#), the Complainant and Respondent will be informed in writing of the resolution of the Complaint, and any applicable disciplinary or remedial measures as allowed by law, including, but not limited to, the FERPA.

6.0 Remedial Measures and Disciplinary Actions

- 6.1 Depending on the specific nature of the situation, remedies for a Complainant may include, but are not limited to:
- A. Providing an effective escort to ensure that the Complainant can move safely between workplaces, classes and activities;
 - B. Ensuring the Complainant and accused individual are not in the same work area or classroom;
 - C. Providing comprehensive, holistic victim services including medical, counseling and academic support services;
 - D. Arranging for the Complainant to have extra time to complete a work project or class assignment without any adverse consequences; and
 - E. Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the Sexual Harassment and the misconduct that may have resulted in the Complainant being disciplined.
- 6.2 Remedies for the MD Anderson community may include, but are not limited to:
- A. Designating an individual from the counseling center who is specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist Workforce Members and Students whenever needed;
 - B. Training or retraining Workforce Members or Students on MD Anderson's responsibilities to address allegations of Sexual Harassment and Sexual Misconduct;
 - C. Developing materials on Sexual Harassment and Sexual Misconduct, which should be distributed to Workforce Members or Students;
 - D. Conducting bystander intervention and sexual violence prevention programs;
 - E. Issuing policy statements or taking other steps that clearly communicate that MD Anderson does not tolerate Sexual Harassment and Sexual Misconduct and will respond to any incidents and to any Workforce Member or Student who reports such incidents;
 - F. Conducting climate check to assess the effectiveness of efforts to ensure that MD Anderson is free from Sexual Harassment and Sexual Misconduct, and using that information to inform future proactive steps; and
 - G. Targeted training for a group of MD Anderson Workforce Members or Students.
- 6.3 MD Anderson will take prompt disciplinary action against any individuals or organizations within its control who violate this policy. Disciplinary actions that may be imposed for violation of this policy include termination, expulsion, suspension, probation, demotion, issuance of a Notice, Final Notice, reprimand, bar from premises, and issuance of other learning activities.

7.0 Training and Education

- 7.1 All employees are required to complete institutional EEO training during new employee orientation and biennially thereafter.

- 7.2 All Trainees will complete institutional Equal Opportunity training as soon as practical within the first year of their appointment.
- 7.3 EEO and HR Regulations investigators and other MD Anderson employees involved in the complaint process will receive training at least annually on the issues related to Sexual Harassment and Sexual Misconduct, including a review of the policy, Sexual Harassment involving same-sex or international Students, standards for consent and proper investigation techniques.
- 7.4 MD Anderson will engage in risk reduction strategies emphasizing the collective responsibility of the MD Anderson community to reduce the risk of Sexual Harassment and Sexual Misconduct. This includes a prevention and education program about Sexual Harassment and Sexual Misconduct that includes bystander intervention training that enables all Workforce Members and Students to take a role in preventing and interrupting incidents of Sexual Harassment or Sexual Misconduct.
- 7.5 This policy will be made available to all members of the MD Anderson community. Periodic notices sent to Students, residents, fellows and other Trainees, and employees about this policy will include information about the complaint procedure and will refer individuals to the designated offices for additional information.

8.0 Retaliation

- 8.1 A Workforce Member or Student who retaliates in any way against an individual for filing a complaint or participating in an investigation or adjudication is subject to disciplinary action, up to and including termination. Appropriate action will also be taken in the event a contract worker, vendor, patient, or visitor retaliates in any way against such an individual.
- 8.2 Any person covered by this policy who believes they have been subject to Retaliation should immediately report these concerns to EEO and HR Regulations or a Title IX Coordinator. Complaints of Retaliation will be handled in accordance with the [Non-Retaliation Policy \(UTMDACC Institutional Policy# ADM0254\)](#).

9.0 Title IX Grievance Procedure

This complaint procedure shall also constitute the grievance procedure for complaints alleging unlawful sex discrimination required under Title IX of the Education Amendments of 1972. As used herein, "complaint" is synonymous with "grievance."

ATTACHMENTS/LINKS

[Sexual Harassment / Sexual Misconduct Complaint Resolution Procedures \(Attachment # ATT1962\).](#)

[Supplemental Definitions \(Attachment # ATT1961\).](#)

RELATED POLICIES

[AVA-Trainee Disciplinary Actions and Appeals Policy \(UTMDACC Institutional Policy # ACA0068\).](#)

[Clery Act Policy on Reporting Criminal Activity \(UTMDACC Institutional Policy # ADM1104\).](#)

[Disciplinary Action Policy \(UTMDACC Institutional Policy #ADM0256\).](#)

[Equal Employment Opportunity Policy \(UTMDACC Institutional Policy # ADM0284\).](#)

[Non-Retaliation Policy \(UTMDACC Institutional Policy # ADM0254\).](#)

[Termination of Employment of a Faculty Member Policy \(UTMDACC Institutional Policy # ACA0059\).](#)

JOINT COMMISSION STANDARDS / NATIONAL PATIENT SAFETY GOALS

None.

OTHER RELATED ACCREDITATION / REGULATORY STANDARDS

None.

REFERENCES

[Clery Act.](#)

[Family Education Rights and Privacy Act.](#)

POLICY APPROVAL

Approved With Revisions Date: 07/07/2015

Approved Without Revisions Date:

Implementation Date: 07/07/2015

Version: 25.0

RESPONSIBLE DEPARTMENT(S)

Human Resources

MD Anderson Institutional Policy Attachment

SUPPLEMENTAL DEFINITIONS

Governing Policies*:

[Sexual Harassment and Sexual Misconduct Prevention Policy \(UTMDACC Institutional Policy # ADM0285\).](#)

* Refer to the governing policy, listed above, for more complete guidance and instructions.

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not apply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity presumes a lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.¹

¹ Section 22.011(b) of the Texas Penal Code: Non-consensual activity includes, but is not limited to: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

Dating Violence² – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- a) *The existence of such a relationship shall be determined by the victim with consideration of the following factors:*
 - i. The length of the relationship;
 - ii. The type of relationship; and
 - iii. The frequency of interaction between the persons involved in the relationship
- b) *Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.*

Domestic (Family) Violence³ – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

² Dating Violence is defined by the Texas Family Code Section 71.0021 as:

- (a) "Dating violence" means an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
 - (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
 - (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).
- Texas Penal Code Section 22.01 provides the criminal penalties associated with Dating Violence.

³ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
 - (2) abuse, as that term is defined by Sections [261.001\(1\)\(C\)](#), (E), and (G), by a member of a family or household toward a child of the family or household; or
 - (3) dating violence, as that term is defined by Section [71.0021](#).
- Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

Sexual Assault⁴ – An offense that meets the definition of rape, fondling, incest, or statutory rape:

- c) *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- d) *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- e) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- f) *Statutory Rape*: Sexual Intercourse with a person who is under the statutory age of consent.

Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material via email, via text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

⁴ Sexual Assault is defined by Texas Penal Code Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent;
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

Stalking⁵ – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition,

- a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person, or interferes with a person's property.
- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

⁵ Stalking as defined by Texas Penal Code, sec. 42.072 as when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.



Institutional Handbook of Operating Procedures (IHOP)

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| Section: | 4 – Institutional Compliance Related | | First Release Date: 10/05/2004 |
| Policy Name: | 4_1_5 Sexual Harassment/Sexual Misconduct | | |
| Revision Author: | Office of Legal Affairs | | Reviewed Date: 06/15/2015 <input type="checkbox"/> Without Changes <input checked="" type="checkbox"/> With Changes |
| Original Author: | Associate VP Human Resources | | |
| Approving Body: | Dates of Approval: | | Next Review Date: 06/15/2018 |
| UTS Office of General Counsel | | | |
| Executive Cabinet | 05/27/2015 | | |
| Executive Institutional Compliance Committee | 00/00/2015 | | |
| Deans Council | 06/03/2015 | | |

| | |
|-----------------|--|
| Scope: | This policy applies to all University of Texas Health Science Center at Tyler administrators, faculty, staff, students, and third parties within the University’s control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant’s education or employment with the University. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing. |
| Purpose: | The University of Texas Health Science Center at Tyler is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendment of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). |

POLICY:

Section 1 General Policy Statement.

- 1.1 The University of Texas Health Science Center at Tyler (“University”) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct is a form of sex discrimination and will not be tolerated. As stated in the definition, sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.

- 1.2 The University will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The University encourages



any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified in Section 3.2.

Section 2 Applicability. This Policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.

Section 3 Filing a Complaint and Reporting Violations.

3.1 All Members of the University Community, Third Party and Anonymous Complaints. All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.

- a. Anonymity. Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit the University's ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.
- b. Confidentiality. The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section 3.5.
- c. Timeliness of Complaint. Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.

3.2 Responsible Employees. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations



as defined in Section 3.5.¹ Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the following website:

[\[REDACTED\]](#).

- 3.3 Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas at Health Science Center at Tyler Police Department at (903) 877-5297 (non-emergency) or (903) 877-4444 (emergency) or to the City of Tyler Police Department (903) 531-1090 (non-emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Deputy Coordinators can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department.

If a complaint of sexual misconduct is reported to the University Police Department, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police Department shall also notify the Title IX Coordinator of the complaint, and provide the Title IX Coordinator or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

- 3.4 Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

Office for Civil Rights

U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
Telephone: (214) 661-9600
Facsimile: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202
Phone: (800) 669-4000
FAX: (214) 253-2720

¹ For example, a student may make a complaint to an employee in the Dean of Students' Office, a faculty member or university police. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report the complaint to the Title IX Coordinator or other appropriate designee.



3.5 Confidential Support and Resources. Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals) are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in Counseling and Psychological Services, a health care provider in Health Services, the clergyperson of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator. The University and community resources that provide such services are:

The University of Texas at Tyler Student Counseling Center
3900 University Boulevard
Tyler, Texas 75799
(903) 566-7254
Office hours : Monday-Friday 8 a.m. – 5 p.m.
24/7 Crisis line: (903) 566-7254

East Texas Crisis Center
2401 Old Noonday Road
Tyler, Texas 75701
(903) 509-2526
24 hours Crisis line: (903) 595-5591 (800) 333-0358

3.6 Immunity. In an effort to encourage reporting of sexual misconduct, the University may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this Policy.

3.7 Title IX Coordinator and Deputy Coordinators. The Title IX Coordinator and Deputy Coordinators are:

Mickey Slimp, Coordinator
11937 US Highway 271
Tyler, Texas 75708
(903) 877-1220
mickey.slimp@uthct.edu

Donny Henry, Deputy Coordinator
11937 US Highway 271
Tyler, Texas 75708
(903) 877-7323
donald.henry@uthct.edu



David Conley, Deputy Coordinator
11937 US Highway 271
Tyler, Texas 75708
(903) 877-7575
david.conley@uthct.edu

Section 4. Parties' Rights Regarding Confidentiality. The University has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality. In the course of the investigation, the University may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. The University will take all reasonable steps to ensure there is no retaliation against a complainant. The University will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the University will also protect the privacy of all parties to a report of sexual misconduct.

Section 5. Victim Resources.

5.1 Immediate Assistance.

- A. Healthcare. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within four (4) days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of Trinity Mother Frances Hospital, East Texas Medical Center or the nearest hospital that provides SAFE services, or contact the East Texas Crisis Center.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.



- B. Police Assistance. The University encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on the University campus, a report may be filed with the University Police Department by calling (903) 877-5297 or in person at University Police headquarters on campus at Building 717, Camp Fannin Avenue, Tyler, Texas, even if time has passed since the assault occurred.

The University Police Department can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a University disciplinary hearing. If the University police are called, a uniformed officer will be sent to the scene to take a detailed statement. A report may be filed with the University police even if the assailant was not a University student or employee. If the incident occurred in the City of Tyler, but off campus, a report may be filed with the Tyler Police Department, even if time has passed since the assault occurred, and likewise for other surrounding cities. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

- C. Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he/she does not plan to request a SAFE or report the assault to the police. He/she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

Medical care can be provided at the University Health Clinic (for students only) at the University, at a local emergency room, or by a private physician. Psychological support can be provided by the Student Counseling Center at The University of Texas at Tyler (students), Employee Assistance (employees and students, if applicable), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

Students desiring counseling should contact:

Student Counseling Center
The University of Texas at Tyler
(903) 566-7254

Faculty and staff should contact:

Employee Assistance Program
(800) 346-3549
www.uteap.org

5.2 Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, the University will take immediate and interim measures to assure the safety and well-being of the



complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the University may be able to provide additional accommodations for a complainant while an investigation is pending.

Section 6 Intake Procedures and Protocol.

6.1 Key Officials in an Investigation.

- A. Title IX Coordinator. The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators.

Any member of the University community may contact the Title IX Coordinator with questions.

- B. Investigators. The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Deputy Coordinators shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary.

6.2 Assessment of Complaint.

The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

- A. With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and
- B. When both parties are categorically similar (i.e. employee/employee or student/student).

6.3 Notification of University Offices Offering Assistance. After receiving a complaint, the Title IX Coordinator or Deputy Coordinator shall direct the Academic Services and Institutional Assessment Coordinator for students or Human Resources for



employees to inform the complainant of available resources and assistance. While taking into consideration requested confidentiality, the Academic Services and Institutional Assessment Coordinator for students and Human Resources office may serve as a liaison between the complainant and the Title IX Coordinator during the investigation.

6.4 Informal Resolution of Certain Sexual Harassment Complaints.

A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he/she has been subject to sexual misconduct may immediately file a formal complaint as described in Section 3 of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Coordinator.

- A. Informal Assistance. In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Coordinator or designee, then the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, directing a University official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, the University may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.
- B. Timeframe. Informal resolutions should be completed no later than ten (10) business days after the Title IX Coordinator receives the request for informal resolution.
- C. Confidentiality and Documentation. The University will document and record informal resolutions. The Title IX Coordinator will retain the documentation. If the individual's wish to remain anonymous limits the University's ability to establish facts and eliminate the potential harassment, the University will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

6.5 Formal Complaint and Investigation.

Formal Complaint. To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information that is relevant to the complaint. The University may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If



the complaint is not in writing, the investigator should prepare a statement of what he/she understands the complaint to be and ask the complainant to verify that statement. The University office receiving the complaint should refer the complaint to the Title IX Coordinator.

Investigation.

- A. An investigator will be assigned to investigate the complaint.
- B. As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.
- C. The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.
- D. Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- E. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding sixty (60) days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator or his/her supervisor. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.
- F. After the investigation is complete, a written report² will be issued to the Title IX Coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a "preponderance of the evidence" standard).
- G. After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at the University's discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have seven (7) business days from the date of receipt (as indicated on the return receipt) to submit written comments regarding the investigation to the Title IX Coordinator.

² Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.



H. Within seven (7) business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or his/her designee will: (1) request further investigation into the complaint; (2) dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or (3) find that the Policy was violated. A decision that the Policy was violated shall be based on the record.

I. If the Title IX Coordinator or his/her designee determines that the Policy was violated, he/she will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).

J. The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with section 6.5.G of this Policy.

K. The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).

6.6 Standard of Proof. All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.

6.7 Timelines. Barring any unforeseen and reasonable delays, the University will endeavor to resolve complaints under this Policy no later than sixty (60) calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60 calendar days, the University will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The University will also communicate with the respondent regarding his/her Title IX rights, procedural options and information regarding the status of the investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.

6.8 Remedies. In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s),



including but not limited to those below, to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- (a) Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
- (b) Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
- (c) Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
- (d) Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- (e) Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- (f) Determining whether sexual misconduct adversely affected the complainant's University standing;
- (g) Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
- (h) Conducting, in conjunction with University leaders, a University climate check to assess the effectiveness of efforts to ensure that the University is free from sexual misconduct, and using that information to inform future proactive steps that the University will take;
- (i) Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
- (j) Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

6.9 Sanctions and Discipline. Disciplinary action against faculty and employees will be handled under the University's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal.



The Dean of Students or his/her designee will impose disciplinary action, if any, against a student under the University's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

LINK TO STUDENT CONDUCT POLICY

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the "preponderance of the evidence," as defined in this Policy.

Section 7. Provisions Applicable to the Investigation.

- 7.1 Assistance. During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.
- 7.2 Time Limitations. Time limitations in these procedures may be modified by the Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University.
- 7.3 Concurrent Criminal or Civil Proceedings. The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The University has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Section 6.7).
- 7.4 Documentation. The University will document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and University policy.

Section 8. Dissemination of Policy and Educational Programs.

- 8.1 Dissemination of Policy. This Policy will be made available to all University administrators, faculty, staff, and students online at [redacted] and in University publications. Periodic notices will be sent to University administrators, faculty, staff and students about the University's Sexual Harassment/Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.
- 8.2 Ongoing Sexual Misconduct Training. The University's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. The University will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to



law enforcement personnel, including training on their obligation to advise University administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal complaint. [Link to web page with training](#)

8.3 Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to sexual misconduct.

Section 9. Additional Conduct Violations.

9.1 Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.

9.2 False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding of non-responsibility does not indicate a report was false.

9.3 Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:

- (a) Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- (b) Removing, destroying, or altering documentation relevant to the investigation; or
- (c) Providing false or misleading information to the investigator, or encouraging others to do so.

9.4 No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated University rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a University employee. Nothing in this section shall limit the University's ability to take interim action.

Section 10 Documentation. The University will confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator will document each complaint or request for assistance under this Policy, whether made by a victim, a



third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

Section 11 Annual Reporting and Notice. The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, the University will send notice of its compliance with Title IX as required by law. The annual notice will designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related University websites.

3. Definitions and Examples³

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual's ability to exercise his/ her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.⁴

³ The definitions provided in the main body of the text are the definitions adopted by the University. When applicable, the state law definition is included. In any criminal action brought by law enforcement, the state law definition will apply.

⁴ Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.



Dating Violence⁵ – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined by the victim with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violence⁶ – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and University visitors).

⁵ Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

⁶ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001\(1\)\(C\)](#), [\(E\)](#), and [\(G\)](#), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#).

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.



In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. A single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual misconduct policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

Incapacitation – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

Intimidation – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Responsible Employee – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5. Incidents of sexual misconduct



(including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.

Retaliation – Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

Sexual Assault⁷ – An offense that meets the definition of rape, fondling, incest, or statutory rape:

- a) *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b) *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- c) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d) *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in University activities, or creates an objectively hostile environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

⁷ Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.



- a) Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. unwelcome intentional touching; or
 - ii. deliberate physical interference with or restriction of movement.
- c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - i. explicit or implicit propositions to engage in sexual activity;
 - ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. persistent, unwanted sexual or romantic attention;
 - v. subtle or overt pressure for sexual favors;
 - vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
 - vii. deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence – Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking⁸ – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition--

⁸ Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.



- a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

4. Relevant Federal and State Statutes, and Standards

[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11.](#)

[Clery Act, 20 U.S.C 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

[FERPA Regulations, 34 C.F.R. Part 99](#)

5. Other Relevant Policies, Procedures, and Forms

[Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships](#)

[University of Texas System Administration Systemwide Policy \(UTS 184\), Consensual Relationships](#)

University's Sex Discrimination Policy

[Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member](#)

Staff Discipline policy

Student Discipline policy

6. System Administration Office(s) Responsible for Policy

Office of General Counsel

7. Dates Approved or Amended

April 6, 2015

February 21, 2012

8. Contact Information

Questions or comments about this Policy should be directed to:

- ogc_intake@utsystem.edu

51. Contract (funds coming in) - U. T. Southwestern Medical Center: Culinaire International, Inc. to provide food and beverage service for the North Campus

Agency: Culinaire International, Inc.

Funds: Capital investment of not less than \$250,000 (but not to exceed \$275,000) in the renovation of the North Campus Food Court

Royalties to be paid to U. T. Southwestern Medical Center, to be calculated as follows:

Internal/Full Service Catering (inclusive of Special Events):

0% for Gross Revenues between \$0 and \$100,000 per Contractor Accounting Year

5% for Gross Revenues between \$100,000 and \$500,000 per Contractor Accounting Year

10% for Gross Revenues in excess of \$500,000 per Contractor Accounting Year

Third Floor Food Court:

0% for Gross Revenues between \$0 and \$150,000 per Contractor Accounting Year

5% for Gross Revenues between \$150,000 and \$350,000 per Contractor Accounting Year

10% for Gross Revenues in excess of \$350,000 per Contractor Accounting Year

14th Floor Dining Facility:

Culinaire will pay U. T. Southwestern Medical Center a royalty equal to 50% of the profits earned by Culinaire in the operation of the Dining Facility per year after Culinaire has recovered any accumulated operating losses, plus an annual \$25,000 management fee beginning after the first year of operation which management fee shall be accounted for by a deduction from the profits of the Dining Facility. Profits shall be calculated by Culinaire using generally acceptable accounting practices applied on a consistent basis.

Period: Effective March 28, 2015, and to expire 10 years following completion of upgrade to the Food Court, with the option to extend for two additional two-year terms

Description: Culinaire International, Inc. will (i) provide food and beverage service for U. T. Southwestern Medical Center's North Campus, and will be the exclusive provider of catering services for special events in the Third Floor Food Court and the 14th Floor Dining Facility, with the exception of functions coordinated by the University President's Office; (ii) make a financial commitment to an upgrade to the North Campus dining facilities (including the Third Floor Food Court and the 14th Floor Dining Facility); and (iii) provide all other related, necessary, and appropriate services.

52. Contract (funds coming in) - U. T. Southwestern Medical Center: To provide physician services to Parkland Health and Hospital System for Dallas County Hospital District

Agency: Dallas County Hospital District

Funds: \$70,869,469

Period: October 1, 2015 through September 30, 2016

Description: U. T. Southwestern Medical Center will provide physician services to Parkland Health and Hospital System for Dallas County Hospital District.

53. Contract (funds coming in) - U. T. Southwestern Medical Center: To provide physicians and other health care services to the indigent population of Dallas County at Parkland Health and Hospital System for the Dallas County Indigent Care Corporation (DCICC)

Agency: Dallas County Indigent Care Corporation (DCICC)

Funds: \$142,646,144

Period: October 1, 2015 through September 30, 2016

Description: U. T. Southwestern Medical Center will provide physician and other health care services at Parkland Health and Hospital System to indigent and needy persons in and around Dallas County, Texas.

54. Request for Budget Change - U. T. Southwestern Medical Center: New Hires with Tenure -- amendment to the 2014-2015 budget

The following Requests for Budget Change (RBC) have been administratively approved by the Executive Vice Chancellor for Health Affairs and are recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|------------------------------------|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| Southwestern Medical School | | | | | |
| Cell Biology | | | | | |
| Associate Professor | | | | | |
| Daniela Nicastro (T) | 7/1-8/31 | 100 | 12 | 146,000 | 7042 |
| Pathology | | | | | |
| Professor | | | | | |
| Wenxin Zheng (T) | 7/1-8/31 | 100 | 12 | 315,000 | 7043 |
| Radiology | | | | | |
| Professor | | | | | |
| Joseph Maldjian (T) | 7/28-8/31 | 100 | 12 | 410,000 | 7073 |
| Professor | | | | | |
| Robert Mattrey (T) | 7/6-8/31 | 100 | 12 | 360,000 | 7011 |

55. Request for Budget Change - U. T. Southwestern Medical Center: New Hire with Tenure -- amendment to the 2015-2016 budget

The following Request for Budget Change (RBC) has been administratively approved by the Executive Vice Chancellor for Health Affairs and is recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|------------------------------------|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| Southwestern Medical School | | | | | |
| Pathology | | | | | |
| Professor | | | | | |
| Yang-Xin Fu (T) | 10/15-8/31 | 100 | 12 | 235,000 | 7349 |

56. Request for Budget Change - U. T. Southwestern Medical Center: Tenure Appointment -- amendment to the 2015-2016 budget

The following Request for Budget Change (RBC) has been administratively approved by the Executive Vice Chancellor for Health Affairs and is recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|------------------------------------|----------------|--------|------------------|----------|-------|
| | | | No. Mos. | Rate \$ | |
| Southwestern Medical School | | | | | |
| Plastic Surgery Jeffrey Kenkel | | | | | |
| From: Professor | | 100 | 12 | 540,000 | 7267 |
| To: Chairman and Professor (T) | 9/1-8/31 | 100 | 12 | 750,000* | |

* Reflects base salary and at-risk compensation only and does not include other elements of compensation, such as supplemental compensation or incentive compensation. The proposed complete compensation package for Dr. Kenkel exceeds \$1 million and will be presented to the Board for approval in Executive Session.

57. Request for Budget Change - U. T. Southwestern Medical Center: Approval of Emeritus Title of Albert Roberts from Professor to Professor Emeritus, Department of Internal Medicine in the Medical School (RBC No. 7408) -- amendment to the 2015-2016 budget

58. Purchase - U. T. Southwestern Medical Center: Authorization to purchase one or more tracts of land located in an area bounded by St. Louis Avenue, West Magnolia Avenue, South Main Street, and West Rosedale Street, Fort Worth, Tarrant County, Texas, from multiple owners for the construction of future programmed campus expansion to include medical office buildings, clinical facilities, or other institutional facilities

Description: Purchase of one or more tracts within the area bounded by St. Louis Avenue, West Magnolia Avenue, South Main Street, and West Rosedale Street, Fort Worth, Tarrant County, Texas, for the construction of future medical office buildings, clinical facilities, or other institutional facilities; and authorization for the Executive Director of Real Estate to execute all documents, instruments, and other agreements, and to take all further actions deemed necessary or advisable to purchase the properties. This area is immediately to the east of the acquisition zone approved by the Board of Regents on August 21, 2014.

Seller: RTL Associates, LLC, Douglas J. Woodson, Delfina V. Herrera, John Rangel, Javier Garcia, Nemesio Herrera Est, Delfina Velasco Herrera, June E. Jones, Jim Dunnagan, V. K. Raj LP, Bert Williams, Christian Elbitar, Seeking God Holiness Church, Seeking God First Holiness Church, Tarrant Co. Hospital Dist., BVP Investments, Inc., Doris Johnson et al, Tiana Wages, Paul Nudleman Family Trust, Richard N. Claytor, Esmeralda Ontiveros et al, Kirby Head Teas Insurance, Larimar Development LP, Dwight J. Mitchell, Krus Farms LP, Impart Financial LLC, Sarkis J. Kechejian, MD

Purchase Price: Not to exceed fair market value as established by an independent appraisal

Source of Funds: Gifts and interest on Unrestricted Funds

59. Contract (funds coming in) - U. T. Medical Branch - Galveston: To administer the Texas Department of State Health Services (DSHS) Special Supplemental Nutrition Program for Women, Infants, and Children

Agency: Texas Department of State Health Services (DSHS)

Funds: \$7,558,192

Period: October 1, 2015 through September 30, 2016

Description: U. T. Medical Branch - Galveston will administer the DSHS Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to provide supplemental food benefits, nutrition education, and counseling to enhance good health care at no cost to low-income pregnant and postpartum women, infants, and children identified to be at nutritional risk (DSHS Contract No. 2016-048789).

60. Contract (funds coming in) - U. T. Medical Branch - Galveston: To provide health care services to four Management & Training Corporation (MTC) - Texas Department of Criminal Justice (TDCJ) private prison facilities

Agency: U. T. Medical Branch - Galveston will be the subcontractor to Management & Training Corporation (MTC), contractor

Funds: \$8,340,000 per year

Period: December 1, 2015 through November 30, 2017, with option to renew for another two-year period

Description: U. T. Medical Branch - Galveston will provide health care services for inmates at four MTC-TDCJ private prison units: East Texas Treatment Facility, South Texas Intermediate Sanction Facility, West Texas Intermediate Sanction Facility, and Bridgeport Pre-parole Transfer Facility.

61. Contract (funds going out) - U. T. Medical Branch - Galveston: Carnes Funeral Home to provide mortuary and transport services

Agency: Carnes Funeral Home

Funds: Not to exceed \$3,500,000 for the initial term and all renewals

Source of Funds: Texas Department of Criminal Justice contracted funds

Period: January 1, 2016 through December 31, 2018, with two 12-month renewal options

Description: Carnes Funeral Home will provide mortuary and transport services to U. T. Medical Branch - Galveston upon the death of offenders in custody of the Texas Department of Criminal Justice. The supplier was selected through a competitive bid process.

62. Interagency Agreement (funds coming in) - U. T. Medical Branch - Galveston: Interagency agreement with Texas Tech University Health Sciences Center (TTUHSC) to provide pharmaceutical procurement and dispensing services for Texas Department of Criminal Justice (TDCJ) facilities operated by TTUHSC

Agency: Texas Tech University Health Sciences Center (TTUHSC)

Funds: Approximately \$28,200,000 for two-year agreement; \$14,000,000 in Fiscal Year 2016 and \$14,200,000 in Fiscal Year 2017

Period: September 1, 2015 through August 31, 2017

Description: U. T. Medical Branch - Galveston to provide certain pharmaceutical procurement and dispensing services for TTUHSC at TDCJ facilities for which TTUHSC is responsible. U. T. Medical Branch - Galveston agrees to provide required professional pharmacists who will perform distributive functions and formulary management, and administrative and accounting services related to the performance of this agreement.

63. Interagency Agreement (funds coming in) - U. T. Medical Branch - Galveston: Interagency Agreement with the County of El Paso to provide medical services to inmates of the El Paso Detention System

Agency: County of El Paso, Texas

Funds: \$5,920,000 Fiscal Year 2016; \$6,030,000 Fiscal Year 2017; \$6,150,000 Fiscal Year 2018; \$6,280,000 Fiscal Year 2019; and \$6,410,000 Fiscal Year 2020

Period: November 1, 2015 through October 31, 2017, and may be extended for three one-year renewal terms.

An option to renew may not cover more than one year each and the total period of this contract, including the primary term and all renewals, may not exceed a maximum combined period of five years.

Description: U. T. Medical Branch - Galveston to provide health care services by U. T. Medical Branch - Galveston Correctional Managed Care to inmates at the El Paso county jail facilities for Fiscal Years 2016 and 2017. This contract represents a broadening of U. T. Medical Branch - Galveston's Correctional Managed Care operation to include providing medical services to inmates at county jails in addition to ongoing services provided at Texas Department of Criminal Justice and Texas Juvenile Justice Department facilities.

64. Interagency Agreement (funds coming in) - U. T. Medical Branch - Galveston: Interagency agreement with the County of Burnet for the provision of and administration associated with primary care services and coordination of required hospital services to inmates of Burnet County

Agency: Burnet County, Texas

Funds: \$378,199 Fiscal Year 2016;
\$385,762 Fiscal Year 2017; and
\$393,477 Fiscal Year 2018;

Period: November 16, 2015 through November 15, 2017, with option to renew for a one-year period (November 16, 2017 through November 15, 2018)

Description: U. T. Medical Branch - Galveston to provide health care services for inmates of Burnet County jail including staff coverage for Sick Calls, Non-emergency Trauma Care, Pharmacy (including medicines), Physician Coverage (10 hours weekly), Onsite Nursing Coverage (8 hours daily, Mon.-Fri.), Onsite Dentist Coverage (4 hours weekly), Onsite Licensed Professional Counselor (4 hours weekly), and other covered services detailed in the agreement. This contract represents a broadening of U. T. Medical Branch - Galveston's Correctional Managed Care operation to include providing medical services to inmates at county jails in addition to ongoing services provided at Texas Department of Criminal Justice and Texas Juvenile Justice Department facilities.

65. Request for Budget Change - U. T. Medical Branch - Galveston: New Hires with Tenure -- amendment to the 2015-2016 budget

The following Requests for Budget Change (RBC) have been administratively approved by the Executive Vice Chancellor for Health Affairs and are recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|------------------------------------|----------------|--------|------------------|---------|-------|
| | | | No. Mos. | Rate \$ | |
| School of Medicine | | | | | |
| Biochemistry and Molecular Biology | | | | | |
| Associate Professor | | | | | |
| Eric J. Wagner (T) | 8/1-8/31 | 100 | 12 | 155,000 | 7311 |
| Professor | | | | | |
| Pei-Yong Shi (T) | 10/15-8/31 | 100 | 12 | 360,000 | 7324 |

66. Request for Budget Change - U. T. Medical Branch - Galveston: Approval of Emeritus Title of Frederick A. Murphy from Professor to Professor Emeritus, Department of Pathology, in the School of Medicine (RBC No. 7250) -- amendment to the 2015-2016 budget

67. Purchase - U. T. Medical Branch - Galveston: Approval of campus expansion zone included in U. T. Medical Branch - Galveston, Facilities Master Plan, composed of the city blocks on either side of 6th Street from Market Street to Broadway Avenue and all city blocks between Harborside Drive and The Strand from 13th Street to 20th Street; and related authorization to purchase approximately 0.06 acre of land located at 617 Winnie Street, Galveston, Galveston County, Texas, from Maria Kantalis and Helen Lilienstern

Description: U. T. Medical Branch presented a Facilities Master Plan to the Board of Regents on February 5, 2010, as a report, but did not seek approval at that time. The institution is now seeking approval of that plan's proposed campus expansion zone composed of the city blocks on either side of 6th Street from Market Street to Broadway Avenue and all city blocks between Harborside Drive and The Strand from 13th Street to 20th Street. This approval will allow for the delegation of authority provided in Regents' *Rules and Regulations*, Rule 70301, Section 4, regarding real property.

U. T. Medical Branch also seeks authorization to purchase a 0.06 acre tract of land in the campus expansion zone, located at 617 Winnie Street, which is part of two tracts of land consisting of approximately 0.5 acres located at 709 University Boulevard, Galveston, Galveston County, Texas; and authorization for the Executive Director of Real Estate to execute all documents, instruments, and other agreements, and to take all further actions deemed necessary or advisable to purchase these properties.

Seller: Maria Kantalis and Helen Lilienstern

Purchase Price: Not to exceed fair market value as determined by an independent appraisal performed by Aguirre & Patterson, Inc.; appraisal confidential pursuant to *Texas Education Code* Section 51.951.

Source of Funds: Hospital Revenue

68. Request for Budget Change - U. T. Health Science Center - Houston: Tenure Appointment -- amendment to the 2015-2016 budget

The following Request for Budget Change (RBC) has been administratively approved by the Executive Vice Chancellor for Health Affairs and is recommended for approval by the U. T. System Board of Regents:

| Description | Effective Date | % Time | Full-time Salary | | RBC # |
|---|----------------|--------|------------------|-----------|-------|
| | | | No. Mos. | Rate \$ | |
| School of Biomedical Informatics | | | | | |
| Precision Health Center | | | | | |
| Professor | | | | | |
| Zhongming Zhao (T) | 1/1-8/31 | 100 | 12 | \$329,000 | 7490 |

69. Request for Budget Change - U. T. Health Science Center - Houston: Approval of Emeritus Title of Raul Caetano from Regional Dean and Professor to Professor Emeritus, Department of Epidemiology, Human Genetics and Environment Sciences in the School of Public Health, Dallas Regional Campus (RBC No. 7423) -- amendment to the 2015-2016 budget

70. Contract (funds coming in and going out) - U. T. Health Science Center - San Antonio: Interagency Cooperation Contract with U. T. Rio Grande Valley to continue the University of Texas Health Science Center South Texas Clinical Education Track, Delivery System Reform Incentive Payment (DSRIP) projects and other South Texas Programs in the Rio Grande Valley

Agency: U. T. Rio Grande Valley

Source of Funds: State appropriation designated Delivery System Reform Incentive Payment (DSRIP)

Funds: Not to exceed \$11,531,474

Period: September 1, 2015 through August 31, 2016

Description: This contract is for services to continue the South Texas Clinical Education Track, DSRIP projects, and other programs in the Lower Rio Grande Valley. A portion of the payment, \$7,073,554, is contingent upon U. T. Rio Grande Valley meeting milestones under DSRIP projects associated with the Doctors Hospital at Renaissance.

71. Contract (funds going out) - U. T. M. D. Anderson Cancer Center: General Electric Company, by and through its GE Healthcare Division, to provide maintenance services for diagnostic imaging equipment

Agency: General Electric Company, by and through its GE Healthcare Division

Funds: The total cost of goods and services under this agreement, including all renewals, will not exceed \$65,000,000.

Source of Funds: Hospital Patient Income

Period: The term of this agreement will be for a period of 96 months, commencing on December 1, 2015, and continuing through November 30, 2023. The agreement includes the option for three 12-month renewals.

Description: GE Healthcare Division will provide maintenance and repair services for specified GE Healthcare equipment used by the institution. This agreement is for maintenance and repair of GE equipment that U. T. M. D. Anderson has purchased. Due to the specialized nature of the equipment, the availability of trained service technicians, parts, and diagnostic software is not yet on the open market with another service provider. Accordingly, this agreement was sole sourced to ensure that parts and service can be obtained in a timely manner.

72. Contract (funds going out) - U. T. M. D. Anderson Cancer Center: Hungry Heart Media, Inc., dba Wondros, to develop and produce advertising materials

Agency: Hungry Heart Media, Inc., dba Wondros

Funds: The total cost of services under this agreement, including all renewals, will not exceed \$11,852,147.

Source of Funds: Hospital Patient Income

Period: The term of this agreement will be for a period of 36 months, commencing on February 17, 2016, and continuing through February 16, 2019. The agreement includes the option for two 12-month renewals.

Description: Services provided by Hungry Heart Media, Inc. will include creative concept development, commercial filming, editing, photography, and other creative services to produce advertising campaign assets. This contract was competitively bid.

73. Contract (funds going out) - U. T. M. D. Anderson Cancer Center: Marion Montgomery, Inc. to develop and produce advertising materials as well as acquisition of regional media

Agency: Marion Montgomery, Inc.

Funds: The total cost of services under this agreement, including all renewals, will not exceed \$50,803,200.

Source of Funds: Hospital Patient Income

Period: The term of this agreement will be for a period of 36 months, commencing on February 17, 2016, and continuing through February 16, 2019. The agreement includes the option for two 12-month renewals.

Description: Services provided by Marion Montgomery, Inc. will include local and regional advertising media strategy, media buying, tracking, and measurement. This contract was competitively bid.

74. Contract (funds going out) - U. T. M. D. Anderson Cancer Center: The Richards Group, Inc. to develop and produce advertising materials as well as acquisition of regional and national media

Agency: The Richards Group, Inc.

Funds: The total cost of services under this agreement, including all renewals, will not exceed \$157,784,035.

Source of Funds: Hospital Patient Income

Period: The term of this agreement will be for a period of 36 months, commencing on February 17, 2016, and continuing through February 16, 2019. The agreement includes the option for two 12-month renewals.

Description: Services provided by The Richards Group, Inc. will include national advertising media strategy, media buying, tracking, and measurement. This contract was competitively bid.

75. Lease - U. T. M. D. Anderson Cancer Center: Authorization to sublease approximately 13,261 square feet of space located at 2130 Holcombe Boulevard, Houston, Harris County, Texas, to Immatic US, Inc. for medical research use

Description: Sublease of approximately 13,261 square feet of space located on the 11th floor of 2130 Holcombe Boulevard, Houston, Texas, for medical research use.

Lessee: Immatic US, Inc., a Delaware corporation

Term: Approximately 48 months, estimated to commence late Summer 2016.

Lease Income: Approximately \$1,375,829 in base rent and \$958,674 in estimated operating expenses payable over the 48-month initial term. The initial base rental rate is \$25 per square foot. Additionally, the Lessee shall pay to Lessor additional rent for furniture, fixtures, and equipment in the amount of \$399,850 and an administrative charge equal to 15% of the base rent and operating expenses.

76. Lease - U. T. M. D. Anderson Cancer Center: Authorization to ground lease approximately 87,120 square feet of unimproved land located at 3000 Corder Street, Houston, Harris County, Texas, to Halo House Foundation for the construction and operation by the tenant of a medium-term housing facility for cancer patients; and finding of public purpose

Description: Ground lease of approximately 87,120 square feet of unimproved land located at 3000 Corder Street, Houston, Harris County, Texas, to Halo House Foundation, a Texas nonprofit corporation (Halo House), for the construction and operation by the tenant of a medium-term housing facility for cancer patients.

Lessee: Halo House Foundation, a Texas nonprofit corporation

Term: 20 years, with an anticipated commencement date of June 1, 2017. Lessee will also have three 10-year extension options.

Lease Income: Rent is a nominal \$1 per year in exchange for the benefits to U. T. M. D. Anderson Cancer Center described below. The current value of the land is \$3,050,000 as established by an independent appraisal obtained by the Cancer Center dated December 17, 2015. The estimated market value of initial annual base rent for the premises is \$244,000 calculated at a yield of 8%. Lessee shall be responsible for all operating costs of the property during the term.

Public Purpose: The ground lease will limit the use of the premises to construction and operation of a low-cost patient lodging community facility serving primarily cancer patients in the Texas Medical Center and will terminate if such a facility is not constructed within a given period, permanently ceases operation, or is used for any other purpose.

The lease will also require that Halo House maintain a minimum threshold of cancer patients housed at the facility of eighty percent (80%) and provide monthly occupancy reports. If, for any calendar month during the Term, the proportion of cancer patients falls below this threshold, Lessee shall be obligated to pay market rent for such month.

U. T. M. D. Anderson Cancer Center has concluded that the facility would enable the Cancer Center to offer its services to more patients, especially low to moderate income patients, and assist the institution in pursuing the fulfillment of its mission "to eliminate cancer in Texas, the nation, and the world through outstanding programs that integrate patient care." The ground lease to Halo House would serve the public purpose of low cost housing service to cancer patients in the Texas Medical Center, the majority of which patients are likely to be Cancer Center patients, although occupancy will not be restricted to Cancer Center patients. Nevertheless, the institution has concluded that its patients will be well represented in the facility. Staff at the Cancer Center therefore believes that the lease serves a public purpose specific to the mission of the institution and requests that the Board of Regents make a finding of fact to that effect and authorize the lease.

77. Lease - U. T. M. D. Anderson Cancer Center: Authorization to lease an approximately 155,000 square foot to-be-constructed building to be built on a site located at the southwest corner of State Highway 242 and Fellowship Drive, The Woodlands, Montgomery County, Texas, from The Woodlands Land Development Company, L.P., or a related entity for use as a regional care clinic

Description: Lease of approximately 155,000 square feet in a single-tenant medical clinic building to be constructed by Lessor at a site located at the southwest corner of State Highway 242 and Fellowship Drive, The Woodlands, Montgomery County, Texas, for relocation and expansion of a regional care clinic.

Lessor: The Woodlands Land Development Company, L.P., a Texas limited partnership, or a related entity

Term: The term commences on the date that Lessor substantially completes the construction of the project and continues for 20 years, plus two five-year renewal options. The estimated commencement date is July 1, 2018.

Lease Cost: The base rent will be calculated using a rent constant of 6.5% applied to the total project development cost (including the cost of land acquisition, hard and soft costs of construction, and financing costs). Based on preliminary plans and current construction cost estimates, the year one base rental rate would be \$25.30 per square foot per year and will escalate annually; the projected total lease cost will be approximately \$157,000,000 in base rent and estimated operating expenses over the initial 20-year term. Base rent for each of the renewal option periods will be 95% of the then-prevailing market rental rate. The Lessor is providing a tenant improvement allowance of \$50 per square foot; the institution will fund additional tenant improvements to the leased premises of up to \$150 per square foot.

Source of Funds: Patient revenue

78. Contract (funds coming in) - U. T. Health Science Center - Tyler: Reimbursement contract with the Texas Department of State Health Services to provide mental health services

Agency: Department of State Health Services (DSHS), an agency of the State of Texas

Funds: Not to exceed \$9,210,000

Period: September 1, 2015 through August 31, 2016

Description: U. T. Health Science Center - Tyler will provide residential behavioral health services for up to 30 individuals transferred to U. T. Health Science Center - Tyler from state mental health facilities and will provide acute behavioral health services for up to 14 individuals from a five-county area.

FACILITIES PLANNING AND CONSTRUCTION COMMITTEE

79. Contract (funds going out) - U. T. System: Multivista Systems, LLC to provide construction photo documentation on construction projects Systemwide as determined by each institution

Agency: Multivista Systems, LLC

Funds: Estimated to exceed \$1,000,000 over life of the contract, including renewal options

Source of Funds: Varies by institution

Period: September 1, 2015 through August 31, 2016; with the possibility of four one-year renewals

Description: Multivista Systems, LLC provides construction photo documentation and other related services such as web cams to document each phase of a construction project. Photos are used to refer back to installations and mechanical systems to assist with maintenance and future remodeling and construction. An institution may elect to use these services on any construction project, either managed locally by the institution or by the Office of Facilities Planning and Construction. Multivista Systems, LLC previously provided these services from May 2010 until August 2015. Multivista Systems, LLC was selected again through a competitive bid process initiated in June 2015.

TECHNOLOGY TRANSFER AND RESEARCH COMMITTEE

No items for Consent Agenda

**ADDITIONAL CONSENT AGENDA ITEM
ACADEMIC AFFAIRS COMMITTEE**

Lease - U. T. Tyler: Authorization to ground lease approximately 8.2 acres of unimproved land (as outlined on the attached aerial map) located on the south portion of the U. T. Tyler campus having frontage on University Drive, Tyler, Smith County, Texas, to one of the following entities: (i) Piedmont Pridon Government Group LLC, (ii) SMN LLC, (iii) PMRG Associates II, LP, or (iv) Duke Realty Corporation for the construction and operation of an approximately 48,425 usable square foot Department of Veterans Affairs (VA) clinic, which upon completion of construction will be subleased to the VA

- Description: Authorization for the Executive Director of Real Estate to execute the lease and all documents, instruments, or other agreements related to a ground lease of approximately 8.2 acres of unimproved land located on the U. T. Tyler campus having frontage on University Drive, Tyler, Smith County, Texas to one of the following entities: (i) Piedmont Pridon Government Group LLC, (ii) SMN LLC, (iii) PMRG Associates II, LP, or (iv) Duke Realty Corporation for the construction and operation of an approximately 48,425 usable square foot VA clinic which, upon completion of construction, ground lessee will sublease to the VA.
- Lessee: One of the following entities: (i) Piedmont Pridon Government Group LLC, a North Carolina limited liability company, (ii) SMN LLC, a Texas limited liability company, (iii) PMRG Associates II, LP, a Texas limited partnership, or (iv) Duke Realty Corporation, an Indiana corporation. The site was selected as a potential location by the VA, after which selection the institution issued a term sheet to potential lessees interested in developing the site and subleasing the facility to the VA. The institution will enter into a ground lease with the Lessee (or a single purpose entity created by Lessee approved by U. T. Tyler, the Executive Director of Real Estate and the VA) that is awarded the project by the VA.
- Term: Approximately 17 years, with an anticipated commencement date occurring on or before May 31, 2017. Lessee shall also have three 5-year extension options.
- Lease Income: Rent shall be the fair market rental value of the land as established by an independent appraisal. Lessee shall be responsible for all operating costs of the property during the term.

Aerial Depiction of Site

