

Handbook of Operating Procedures 3-3031

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

Effective August 12, 2020

Executive Sponsor: Chief Compliance Officer and Vice President for Diversity and Community Engagement  
 Policy Owner: University Title IX Coordinator & Office for Inclusion and Equity

<p><b>For Immediate Reporting:</b></p> <p><b>Title IX Office:</b> 512-471-0419</p> <p><b>Title IX Coordinator:</b> 512-471-0419 <a href="mailto:titleix@austin.utexas.edu">titleix@austin.utexas.edu</a> (mailto:titleix@austin.utexas.edu)</p> <p><b>Online reporting:</b> <a href="https://titleix.utexas.edu/file-a-report">https://titleix.utexas.edu/file-a-report</a> (https://titleix.utexas.edu/file-a-report).</p>	<p><b>Anonymous Compliance Hotline:</b> 1-877-507-7321</p> <p><b>Behavior Concerns Advice Line:</b> 512-232-5050 <a href="https://safety.utexas.edu/behavior-concerns-advice-line">https://safety.utexas.edu/behavior-concerns-advice-line</a> (https://safety.utexas.edu/behavior-concerns-advice-line).</p>
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## I. Policy Statement

The University of Texas at Austin is committed to providing an educational and working environment for its students, faculty, and staff that is free from sexual assault, interpersonal violence (including domestic and dating violence), stalking, and sexual harassment (including harassment on the basis of sexual orientation, gender identity, gender expression, or pregnancy status). Throughout this Policy, these unacceptable behaviors are collectively referred to as “Prohibited Conduct.”

In addition, this Policy also prohibits sex discrimination and sexual exploitation. It prohibits unprofessional or inappropriate university-related conduct of faculty, staff, other university employees, or other university affiliates that does not rise to the level of Prohibited Conduct. It also prohibits retaliation against someone because the individual reports under this Policy, opposes an unlawful practice, participates in an investigation, or requests supportive measures. Finally, it prohibits other behavior including providing false information or a making a false complaint, interfering with this Policy’s grievance processes, and failing to report Prohibited Conduct as a non-confidential employee. Freedom of speech is central to the mission of institutions of higher education. Constitutionally protected expression cannot be considered a violation under this Policy.

The University is committed to (1) eliminating, preventing, and addressing the effects of Prohibited Conduct and other conduct defined in this Policy; (2) fostering an environment where all individuals are well informed and supported in reporting Policy violations; (3) providing a fair, equitable, and impartial process

for all parties; and (4) establishing the standards by which violations of this Policy will be evaluated and disciplinary action may be imposed.

The University's Title IX Office is the resource for all information regarding the resources, supports, reports, and processes described in this Policy. Title IX maintains a complete electronic pamphlet where all of this Policy's details and references are included. [The Title IX Coordinator, Deputy Title IX Coordinators and staff](https://titleix.utexas.edu/our-team) (<https://titleix.utexas.edu/our-team>), are available to assist community members in navigating, referring, and participating in any aspect of this Policy.

## II. Who This Policy Applies To

This Policy applies to all University faculty, staff, employees, students, visitors, contractors, university affiliates, and applicants for admission to or employment with the University and others conducting business on campus.

## III. Where this Policy Applies

This Policy applies to conduct that occurs on campus, in university-owned housing, or in an education program or activity. Campus means any building or property owned or leased by the University that is used in direct support of the University's educational purposes. An education program or activity means locations, events, or circumstances over which the University exercises substantial control, and includes any building owned or controlled by a registered student organization. This Policy applies to off-campus conduct when the conduct substantially affects a person's education or employment with the University or poses a risk of harm to members of the University community. As required by federal law, the conduct and location of the underlying events will determine the appropriate grievance process track which will apply to a given complaint.

## IV. Resources and Supportive Measures

### A. Immediate Assistance.

(1) Healthcare. Those who experience sexual violence, sexual assault, dating or domestic violence, are encouraged to seek immediate medical care for physical and emotional injuries and trauma from these events.

Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Survivors 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 5 days (120 hours) 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 the nearest hospital or facility that provides SAFE services or the University providers of these exams. A list of university resources and local hospitals and facilities is here on the Title IX website. Survivors that are not in the Austin area are encouraged to contact the Title IX Office here for assistance in finding healthcare options in their area.

For more information about the SAFE, see

[https://www.texasattorneygeneral.gov/files/cvs/sexual\\_assault\\_examination.pdf](https://www.texasattorneygeneral.gov/files/cvs/sexual_assault_examination.pdf). 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.

(2). **Police Assistance.** The University encourages those who experienced or witnessed sexual violence or stalking, to make a report to the police. The police may, in turn, share the report with the Title IX Office, except when a complainant uses a pseudonym form under the Code of Criminal Procedure for incidents of sexual assault, stalking, family violence, and human trafficking. In those instances, where a pseudonym form is used, the police will only report the type of incident to the Title IX Coordinator but not any information identifying you.

If the incident occurred on the University campus, you may file a report with The [University of Texas at Austin Police Department \(https://police.utexas.edu/contact\)](https://police.utexas.edu/contact), even if time has passed since the incident occurred. If the incident occurred in the City of Austin, but off campus, a report may be filed with the [Austin Police Department \(https://www.austintexas.gov/departments/apd-sex-crimes-unit\)](https://www.austintexas.gov/departments/apd-sex-crimes-unit), even if time has passed since the incident occurred. If a report is made to the police, a uniformed police officer will usually be dispatched to the location to take a written report. A sexual assault victim will also have an opportunity to have a crime victim liaison, counselor, advocate, or police officer with specialized training be present with the victim during police investigative interviews. For incidents occurring outside of Austin, the university encourages contacting the local law enforcement authority.

The University recognizes the right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the University in reporting the crime to law enforcement, or to decline to report the crime to law enforcement. You may contact the [Title IX Office \(https://titleix.utexas.edu/\)](https://titleix.utexas.edu/) to request assistance in making a police report.

(3). **Counseling and Other Services.** Those who experience sexual violence or stalking, are strongly encouraged to seek counseling or medical and psychological care even if the victim does not plan to request a SAFE or report the incident to the police. Health care providers may prescribe medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed. Similarly, other individuals impacted or affected by an incident are encouraged to seek counseling or psychological care. Students seeking counseling can get more information from the [Counseling and Mental Health Center \(https://cmhc.utexas.edu/\)](https://cmhc.utexas.edu/) (CMHC). Faculty and staff seeking counseling can get more information from the HealthPoint [Employee Assistance Program \(https://eap.utexas.edu/\)](https://eap.utexas.edu/) (EAP).

## **B. University Confidential Resources.**

The University believes it is critical to provide community members who may be experiencing Prohibited Conduct with access to trained and caring personnel who can provide confidential support, as well as information about available institutional resources, to empower those individuals to make informed decisions about their rights and options. A list of these “Confidential Employees” can be found in the University’s [Title IX Office website \(https://titleix.utexas.edu/campus-resources\)](https://titleix.utexas.edu/campus-resources).

State law requires university employees, including faculty, to file a report with the Title IX Coordinator when they receive information regarding an incident that the faculty or employee reasonably believes constitutes sexual assault, dating violence, stalking, or sexual harassment. However, members of the University community may speak to Confidential Employees about Prohibited Conduct without the conversation triggering a mandatory report of incident details. **A Confidential Employee, or police officers when a Survivor uses a pseudonym form (as outlined in Section IV(A)(2) of this Policy) is not required to report any information that would violate an individual’s expectation of privacy, such as the name or other identifying information of an individual who has experienced or allegedly engaged in Prohibited Conduct.**

### C. Other Resources.

The University's Title IX Office maintains an updated and complete list of the different University and community resources on its [website \(https://titleix.utexas.edu/campus-resources\)](https://titleix.utexas.edu/campus-resources). Community members are encouraged to reach out to the Title IX Office for assistance in identifying the resources that best fit their needs and for any necessary guidance in navigating the options.

### D. Supportive Measures.

The University will offer reasonably available individualized services, without any fee or charge, to the parties involved in a reported incident with or without the filing of a Formal Complaint, when applicable. Supportive Measures may include but are not limited to housing reassignment, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, withdrawal from or retake of a class without penalty, campus safe-walk services, mutual restrictions on contact between the parties, change in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, or other similar measures tailored to the individualized needs of the parties. Affected parties are encouraged to contact the [Title IX Office \(https://titleix.utexas.edu/campus-resources\)](https://titleix.utexas.edu/campus-resources) to begin the process for identifying and coordinating support measures that may be available. The University will maintain the confidentiality of Supportive Measures provided to the Parties, to the extent that maintaining such confidentiality does not impair the ability of the University to provide the Supportive Measures.

## V. Prohibited Conduct Definitions.

The following are categories of conduct that are prohibited by the University and will result in disciplinary action. For employees, the presumptively appropriate discipline for a finding of responsibility of these categories of conduct is termination.

A. **Sexual Assault:** Conduct 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 affected individual.

(2) **Fondling:** The intentional touching of private body parts (including the genitalia, anus, groin, breast, inner thigh, or buttocks) of another person for the purpose of sexual gratification without the Consent of an affected individual.

(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 younger than 17 years of age and is not a spouse of the Respondent.

B. **Interpersonal Violence:** Violence committed in a relationship that meets the definition of Domestic Violence or Dating Violence.

(1) **Domestic Violence:** Physical abuse, violence, or threats of abuse or violence committed by a (a) current or former spouse or intimate partner of the affected individual, (b) a person with whom the affected individual shares a child in common, (c) a person with whom the affected individual is cohabiting (or has cohabited) with, (d) a person similarly situated to a spouse of the affected individual under the domestic or family violence laws of the State of Texas, or (e) 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:** Physical abuse, violence, or threats of abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the affected individual. The existence of such a relationship will be determined based on (a) the type and length of the relationship and (b) the frequency of interaction between the persons involved in the relationship.

C. **Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or would cause that person to suffer substantial emotional distress.

**(1)** 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.

**(2)** "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the affected individual.

**(3)** "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

D. **Sexual Harassment** is unwelcome, sex-based verbal or physical conduct that qualifies as quid pro quo harassment or hostile environment harassment.

### **(1) Types of Sexual Harassment.**

**(a) Quid pro quo:** An employee of the institution conditioning the provision of University aid, benefit, service or term of employment or educational experience on an individual's participation in unwelcome sexual conduct; or

**(b) Hostile environment:** A hostile environment exists when the conduct is unwelcome and so sufficiently severe, pervasive, and offensive that it effectively denies a person equal access to an education program or activity. Equal access is denied when the conduct unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's education or employment programs and/or activities. The University assesses the totality of the circumstances to determine if these factors are present. Severity determinations consider whether conduct is physically threatening or humiliating, or a mere offensive utterance. Pervasive means frequent. Offensive means conduct that a reasonable person would find hostile or abusive, and the affected individual did perceive it to be hostile or abusive. Conduct must be deemed severe, pervasive, and offensive from both a subjective and an objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was affected.

This type of harassment includes "gender-based harassment," which is harassment based on an individual's actual or perceived gender, sexual orientation, gender identity or gender expression, or is related to an individual exhibiting what is perceived as a stereotypical characteristic for one's sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived sex, gender, sexual orientation, gender identity, or gender expression of the individual. Gender-based harassment may include acts of aggression, intimidation, or hostility,

whether verbal, non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined above, are present.

**(2) Totality of Circumstances.** The determination of whether an environment is “severe, pervasive, and offensive” is based on a totality of circumstances, including, but not limited to:

- the degree to which the conduct interfered with the affected individual’s educational or work performance;
- the type, frequency, and duration of the conduct;
- whether the alleged harasser singled out the affected individual;
- whether the alleged harasser knew the complained-of conduct was unwelcome;
- whether the conduct was physically threatening;
- whether the conduct was humiliating;
- the effect of the conduct on the individual’s mental or emotional state; and
- whether the speech or conduct deserves the protections of academic freedom or the First Amendment.

**(3) Free Speech.** Oral and written communication may rise to the level of sexual harassment, but must be measured against an individual’s free speech rights. The freedoms of speech, expression, and assembly are fundamental rights of all persons and are central to the mission of the University. A person may be disciplined for speech that constitutes sexual harassment, but may not be disciplined for engaging in protected speech.

## *VI. Consent.*

**A.** Consent is the act of willingly agreeing to engage in each specific sexual contact or activity. Consent must be clear, knowing, voluntary, and expressed prior to engaging in and during each sexual act. Consent may be expressed by mutually understandable words or actions. Given the importance of sexual autonomy and the potential impact on those subjected to nonconsensual sexual contact or activity, the University charges all parties to a sexual contact or activity with obtaining agreement from each party engaging in the sexual contact or activity. In assessing discipline matters, the responsibility for obtaining effective Consent is on the person initiating each particular sexual activity or contact.

**B.** Consent to some form of sexual contact or activity cannot be automatically taken as agreement to any other form of sexual contact or activity. Previous Consent does not imply on-going Consent to future sexual conduct. Silence or passivity—without actions demonstrating agreement—cannot be assumed to show Consent. Consent, once given, can be withdrawn at any time. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. An individual’s manner of dress does not constitute Consent to engage in sexual contact or activity. 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 sexual contact or activity.

**C.** Consent is not effective if it results from:

**(1) Force.** Force is the use or threat of physical harm to overcome freedom of will to choose whether to participate in sexual activity.

**(2) Coercion.** Coercion is conduct, including intimidation and express or implied threats of emotional, educational, reputational, financial, or other harm that would place a reasonable person in fear of

immediate or future harm to themselves or another and that is employed to persuade or compel someone to engage in unwelcome sexual contact.

**(3) Incapacitation.** Incapacitation is a mental state caused by drunkenness, intoxication, or other mental or physiological condition in which a person does not have the ability to indicate agreement to engage in sexual contact or activity because the person is mentally and/or physically helpless due to a mental or physiological impairment, drug or alcohol consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual contact or activity is occurring.

- a. An individual's use of alcohol or drugs does not diminish that individual's responsibility to obtain Consent if that individual is the one who initiates the complained-of sexual contact or activity.
- b. In determining Consent where alcohol or other drugs are involved, the University considers the totality of the circumstances, including (but not limited to):
  - o whether a sober reasonable person would have known or deduced that the other was incapacitated;
  - o whether a person actually knew the other was incapacitated.
  - o whether a person demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction;
  - o whether a person was conscious or unconscious;
  - o whether and when a person became sick due to intoxication;
  - o a person's ability to communicate and/or slurred speech;
  - o a person's coordination and physical control of the person's own body (ex. ability to walk, dress/undress, perform simple tasks); and
  - o any other action that would be indicative of a level of cognitive and physical functioning.
- c. In most circumstances, a minor person under the age of 17 does not have capacity to consent to sexual activity under Texas law.
- d. Incapacitation may also exist because of a mental, physiological or developmental disability that impairs the ability to Consent.

## ***VII. Additional Conduct Violations Under This Policy.***

The following are additional categories of conduct that are prohibited by the University and will result in disciplinary action.

**A. Sex Discrimination:** Disparate treatment of an individual on the basis of sex or gender (including, but not limited to, sexual orientation, gender identity, gender expression, and pregnancy status) that adversely affects the terms or conditions of the individual's employment or substantially interferes with the individual's access to education or educational benefits.

**B. Sexual Exploitation:** Sexual Exploitation occurs when a person takes non-consensual sexual advantage of another person for the person's own benefit, or to benefit anyone other than the affected individual, and that behavior does not otherwise constitute other Prohibited Conduct.

Examples of Sexual Exploitation include, but are not limited to:

- causing or attempting to cause the Incapacitation of another individual for sexual purposes;
- electronically recording, videoing, photographing, or transmitting sexual sounds or images of another individual without their Consent;
- allowing a third-party to observe sexual acts without all parties' Consent;
- engaging in voyeurism (e.g., watching private sexual activity without the Consent of the participants or viewing another person's intimate parts (including genitalia, breasts, or buttocks) in a place where that person would have a reasonable expectation of privacy); or
- knowingly exposing another individual to a sexually transmitted disease or infection, including, but not limited to, human immunodeficiency viruses (HIV).

### **C. Unprofessional or Inappropriate Conduct.**

The University, consistent with its commitment to seek to eliminate and prevent Prohibited Conduct, further prohibits faculty, staff, other University employees, and University affiliates from engaging in conduct of a sexual nature that is unprofessional or inappropriate for the educational or working environment, but does not rise to the level of another form of Prohibited Conduct outlined above in this Policy.

Behavior that could constitute unprofessional or inappropriate conduct of a sexual nature may include, but is not limited to:

- repeatedly engaging in sexually oriented conversations, comments, horseplay, or jokes including the use of language or the telling of jokes or anecdotes of a sexual nature, commenting on an individual's body parts or the fit of their clothing, sharing or asking about an individual's sexual activities or preferences;
- making targeted and repeated unwelcome overtures to an individual when the overtures could be reasonably construed as romantic or sexual in nature; and
- engaging in a course of conduct that fails to observe the appropriate boundaries of the supervisor/subordinate or faculty member/student relationship;

Whether or not the unprofessional or inappropriate conduct is sexual in nature will be determined by examining the totality of the circumstances, whether a reasonable person subject to the conduct would construe the conduct as sexual in nature, and whether the individual subject to the conduct construed it as sexual in nature.

This provision applies when the unprofessional or inappropriate conduct occurs on campus, in university-owned housing, or in an education program or activity. This provision also applies to off-campus conduct, including online conduct, when the conduct substantially affects a person's education or employment with the University or poses a risk of harm to members of the University community. Other forms of unauthorized conduct of a sexual nature which are not covered by this Policy, are prohibited in HOP 3-3050 on Consensual Relationships. Other forms of unprofessional conduct not of a sexual nature are prohibited in HOP 5-2420.

### **D. Retaliation.**

Faculty, staff, university affiliates, and students are prohibited from engaging in retaliation. Retaliation means any action taken to adversely affect the terms or conditions of an individual's academic experience or employment with the University, or other institutional status of a student, employee, university affiliate, visitor, or applicant for admission to or employment with the University, because an individual has, in good

faith, reported or brought a complaint under this Policy, opposed an unlawful practice, participated in an investigation, or requested supportive or protective measures.

An individual who engages in Retaliation under this policy is subject to disciplinary action by the University, up to and including termination or expulsion.

Examples of retaliation include, but are not limited to, denial of an educational opportunity, experience or promotion; non-selection/refusal to hire; denial of job benefits; demotion or negative impact on grades or academic status; suspension; discharge; reprimands; negative evaluations or refusals to provide references; harassment; or other adverse treatment that is likely to deter reasonable people from pursuing their rights.

The filing of a Complaint under this Policy will not stop or delay any action unrelated to the Formal Complaint, including: (1) any evaluation or disciplinary action relating to a person 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 or execute an emergency removal.

#### **E. False Information and False Complaints.**

Any person, who in bad faith, knowingly files a false complaint or report under this Policy or provides materially false information is subject to separation from the University, as required by State law. A determination that a Respondent is not responsible for allegations of violation of this Policy does not imply a report, Formal Complaint, or information provided was false. Similarly, a determination that a Respondent is responsible for a violation under this Policy does not imply that a Respondent's statements disclaiming responsibility were false.

#### **F. Interference with Grievance Processes under this Policy.**

Any person who interferes with the Grievance Processes under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with a Grievance Process 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, withholding, or altering documentation relevant to the Grievance Process; or
- (3) Knowingly providing false or misleading information to the Title IX Coordinator, investigator or hearing officer, or encouraging others to do so.

#### **G. Failure to Report by a Non-Confidential Employee.**

All Employees, not designated by the University as Confidential Employees, that knowingly fail to report all known information concerning an incident the employee reasonably believes constitutes stalking, dating violence, sexual assault, or sexual harassment committed by or against a student or employee at the time of the incident, are subject to disciplinary action, including termination. Non-Confidential Employees are

required to promptly report known incidents. Promptly means as soon as is practicable and without unreasonable delay.

For purposes of Failure to Report, the definition of sexual harassment, as defined under state law, is broader than the definition of sexual harassment under this Policy and is defined as:

Unwelcome, sex-based verbal or physical conduct that:

- (1) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
- (2) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary institution.

## VIII. Sanctions for Policy Violations.

If a person is found responsible for violating this Policy, the University may impose one or more sanctions and initiate additional remedial actions in accordance with the guidelines set forth below.

This Policy prohibits a broad range of conduct. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the appropriate disciplinary authority has some discretion in the imposition of sanctions tailored to the facts and circumstances of each report, to the impact of the conduct, and to achieving accountability. The imposition of sanctions is designed to eliminate conduct described in this policy, prevent its recurrence, and remedy its effects, while supporting the University's educational mission. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, or so adverse to the educational process that it requires severe sanctions, including suspension, expulsion, or termination.

### A. Sanctions for Student-Respondents

Sanctions against a student will be imposed by the Office of the Dean of Students in accordance with the University's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion. For a complete list of authorized disciplinary sanctions for students, see **Subchapter 11-700** (<https://catalog.utexas.edu/general-information/appendices/appendix-c/student-discipline-and-conduct/>), of the University's General Information Catalog.

### B. Sanctions for Employee-Respondents

Sanctions against University employees will be handled under the University's employment policies governing discipline and dismissal of faculty and staff, respectively. The Executive Vice President and Provost will determine sanctions for faculty. The Associate Vice President for Human Resources will determine sanctions for staff. Sanctions may include, but are not limited to, mandated training; written reprimands or corrective action; imposition of conditions on teaching, supervising, or other official duties; financial penalty; unpaid time off; suspension with or without pay; demotion; reassignment of duties; other professional sanctions; or termination.

The University will consider termination for faculty or staff, the presumptively appropriate discipline for a finding of responsibility, for the following Prohibited Conduct: (1) Sexual Assault, (2) Interpersonal Violence (3) Stalking, and (4) Sexual Harassment. This presumption may be rebutted or confirmed, in the disciplinary authority's discretion, by one or more mitigating or aggravating factors in order to reach a just and appropriate resolution in each case.

1. **Mitigating factors** include, but are not limited to:

- the expressed requests of the affected individual; and
- the absence of previous disciplinary history of the Respondent.

2. **Aggravating factors** include, but are not limited to:

- the nature and severity of the conduct, including the use of force or a weapon;
- the level of ongoing threat to the physical safety and security of the Complainant or other members of the University community;
- the need to remedy and address the impact or effects of the conduct on the Complainant;
- the impact or implications of the conduct on the community or the University, including other members of an affected academic or departmental unit;
- whether the Respondent engaged in any acts of retaliation for the report of the incident;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline or criminal history (if available); and
- refusal to acknowledge culpability or accept responsibility for clear violation of the Policy.

Sanctions will be communicated to the parties, as appropriate, in writing by the Executive Vice President and Provost and/or the Associate Vice President for Human Resources, or their designee. In all cases involving violations of this Policy, the file will be archived by the Title IX Office.

## *IX. Responsibilities & Procedures*

### **A. Definitions.**

**(1) Complainant.** The individual who is alleged to be the victim of any prohibited conduct under this Policy.

**(2) Participants.** The term "participants" includes the Complainant, Respondent, and any witnesses.

**(3) Parties.** The term "parties" refers to the "Complainant" and the "Respondent" under this Policy.

**(4) Preponderance of the Evidence.** The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of conduct that violates this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

**(5) Reporter.** The individual making a report of an incident under this Policy

**(6) Respondent.** The individual and/or organization reported to be the alleged perpetrator of conduct that violates this Policy.

### **B. Reporting Incidents, Formal Complaints, and Interim Measures.**

The University recognizes the rights of Parties to report an incident to the University and to receive a prompt and equitable resolution of the report.

This Policy distinguishes between *reporting* incidents and *filing* a Formal Complaint.

**(1) Reporting Incidents.** Any person may report an incident under this Policy to the **Title IX Coordinator** ([https://utexas-advocate.symlicity.com/titleix\\_report/index.php/pid919461?](https://utexas-advocate.symlicity.com/titleix_report/index.php/pid919461?)), via email at [titleix@austin.utexas.edu](mailto:titleix@austin.utexas.edu) (<mailto:titleix@austin.utexas.edu>), via mail at 1616 Guadalupe, suite 2.507, mail stop D9200, 78701, or by calling 512-471-0419, regardless of whether the person reporting is the person alleged to be subject to the complained-of behavior. Also, any person may report incidents anonymously via **an online reporting form** ([https://utexas-gme-advocate.symlicity.com/titleix\\_report/](https://utexas-gme-advocate.symlicity.com/titleix_report/)).

Reporting an incident informs the University of the incident, which allows the institution to provide Supportive Measures (see Section IV(D) above) to the Parties and does not necessarily result in the initiation of a grievance process (as outlined below). All Parties who report incidents under this Policy will be offered individualized Supportive Measures. A decision to remain anonymous may greatly limit the University's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy. Prompt reporting is encouraged.

Individuals may prefer to report incidents outside of the University. A list of available outside entities that receive reports is available here.

**(2) Filing Formal Complaints.** Any person subject to an alleged incident under this Policy, may file a Formal Complaint here to initiate the appropriate grievance process. There are three grievance process tracks under this Policy. The Title IX Office maintains a chart here showing the three different tracks and their respective applications, as described below, as explained in more detail below (including exceptions and details as to applicability). The University recognizes the right of a victim of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking to report the incident and to receive a prompt and equitable resolution of the report or Formal Complaint.

The Title IX Coordinator may also file and sign a Formal Complaint based on any incident report received which will initiate the appropriate grievance process track.

**(3) Formal Complaint Dismissals.**

(a) The University may dismiss a Formal Complaint, at its discretion, for any of the following circumstances:

- (i) If the Complainant requests in writing to dismiss a Formal Complaint;
- (ii) If the Respondent is an employee and no longer employed by the University at the time the Formal Complaint is filed, or is no longer employed at any time during the grievance process including the investigation or hearing;
- (iii) Any specific circumstances that prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or any allegations therein; or
- (iv) The conduct alleged does not meet the definition of any conduct prohibited under this Policy.

(b) If the University dismisses a Formal Complaint, the University must provide both parties a written notice of the dismissal and the reason(s) for the dismissal. Factors the University must consider when determining whether to investigate an alleged incident under this Policy include, but are not limited to:

- (i) The seriousness of the alleged incident;

- (ii) Whether the University has received other reports of Prohibited Conduct by the alleged Respondent;
- (iii) Whether the alleged incident poses a risk of harm to others; and
- (iv) Any other factors the University determines relevant.

Under state law, if the Complainant requests in writing that the University not investigate a report, the University must inform the Complainant of the decision whether or not to investigate. If the University dismisses a Formal Complaint, the University must provide the Complainant and Respondent a written notice of the dismissal and the reason(s) for the dismissal.

(c) If the Respondent is a student, who withdraws or graduates while disciplinary charges are pending for a violation of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking, the University will not end the disciplinary process or issue a transcript to the student until the University makes a final determination of responsibility. These matters will be expedited as necessary to accommodate both the student and the affected individual's interest in a speedy resolution.

**(4) Interim Measures.** 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, prohibiting 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.

Emergency removal of an individual may be necessary. A Respondent may be removed from the University's education program, activity, or work environment on an emergency basis if, after an individualized safety and risk analysis, it is determined that such a removal is justified because the Respondent poses an immediate threat to the physical health or safety of an individual arising from the allegations of conduct prohibited by this Policy. Under these circumstances, the Respondent will be notified in writing of the emergency removal from the University's education program, activity, or work environment and the Respondent will have an opportunity to immediately challenge the decision following the emergency removal.

**(5) Employee Investigation Leave and Alternative Work Assignment.** An employee Respondent may be placed on investigation leave or alternative work assignment, in accordance with the University's policy and procedures, during the pendency of a Grievance Process, as outlined in this Policy.

**C. Standard of Evidence & Presumption of Not Responsible.** All Grievance Processes tracks will use the preponderance of the evidence standard, as defined in this Policy. By law, it is presumed that the Respondent is not responsible for the alleged conduct unless that determination regarding responsibility is made at the conclusion of the Grievance Process.

**D. Grievance Process Track A.**

**(1) Application.** Grievance Process Track A in this Policy applies in the instances where all of the following conditions are met; in all other instances, allegations of conduct violating this Policy will be handled in accordance with the Grievance Process Tracks in Section IX(E) below:

- (a) the Respondent is a student (including a student employee) or employee or other university affiliate at the University at the time of the alleged conduct;
- (b) the alleged conduct includes Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Harassment;
- (c) the alleged conduct occurred against a person in the United States; and
- (d) where the Complainant was participating or attempting to participate in an education program or activity at the University. This element is met if the conduct occurred in any of the following: on any University property; during any University activity; in a building owned or controlled by a student organization that is officially recognized by the University; or in instances where the University exercised substantial control over the Respondent and the context in which the alleged conduct occurred.

**(2) Joining allegations to Track A matter.** There may be instances where the same nucleus of underlying facts gives rise to an allegation assigned to the Track A process and simultaneously gives rise to additional allegations of other policy or rule violations not typically covered by Track A. When this occurs, those additional allegations will be joined, for all purposes, to the allegations assigned to Track A. Then, all allegations arising from the same nucleus of underlying facts will be handled through the Track A process.

This joining provision controls even when the additional allegations otherwise would have fallen under a different grievance process. Once an allegation is joined to a Track A matter because of its origin in the same nucleus of underlying facts, Track A is the exclusive process and remedy available for handling that allegation.

**(3) Written Notice of the Formal Complaint and Notification of University Offices Offering Assistance.**

After receiving a Formal Complaint, the Title IX Office will provide a written notice to the Parties of the Formal Complaint and available University resources and assistance. The written notice of the Formal Complaint will include the following:

- A notice of the Grievance Process steps, as outlined in this Policy;
- A notice of the allegations that potentially constitute Prohibited Conduct under this Policy, including sufficient details about the alleged conduct, including the identity of the parties, if known, and the date(s), time(s), and location(s) of alleged conduct known by the University at the time of the Formal Complaint;
- A statement of the potential policy violations being investigated;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that the determination regarding responsibility will be made at the conclusion of the Grievance Process;
- A statement of the range of possible disciplinary sanctions and remedies the University may implement upon a determination of responsibility;
- A statement that credibility determinations will not be based on a person's status as a complainant, respondent, or witness;
- Both parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review all evidence;
- A statement that the parties may review evidence gathered as part of any investigation;
- A statement that knowingly making false statements or knowingly submitting false information during the Grievance Process is prohibited and subject to disciplinary action; and
- Any other information relevant to the written notice.

#### (4) **Investigation of the Formal Complaint—Gathering of Evidence.**

(a) **Respondent Statement.** After the University provides written notice of a Formal Complaint to the parties, the Respondent will be allowed a reasonable time to respond in writing and through an interview with the investigator.

(b) **Notice of Events.** The University will provide written notice to a Party, whose participation is invited or expected, of the date, time, location, participants, and purpose of all meetings, investigative interviews, or other proceedings in the Grievance Process.

(c) **Evidence.** The Parties in the investigation may present any information and evidence that may be relevant to the Formal Complaint, and may have an advisor of their choice attend any related interview, meeting, or proceeding in the Grievance Process. Advisors are not permitted to actively participate in meetings or proceedings in the Grievance Process, unless as expressly outlined below in Section IX(D)(5)(j). The Parties may present the names of any fact or expert witnesses who may provide relevant information, and how the witnesses may be relevant to the Formal Complaint. The Parties may submit to the investigator any questions they would like asked of any known potential witnesses or parties.

(d) **Witness Interviews.** The investigators will interview relevant and available witnesses. Neither the Complainant nor the Respondent will normally attend these interviews; however, if either one is permitted to attend, the other shall have the same right.

(e) **Investigation Timeframe.** The investigation of a Formal Complaint will be concluded within 90 business days of the filing of a Formal Complaint. The Parties should be provided updates on the progress of the investigation, as needed.

(f) **Access to Evidence.** Prior to the completion of the investigation report, the investigators will provide access to all evidence obtained (whether relevant or not) as part of the investigation to both Parties (and the Party's advisor, if any, upon a Party's signed information release for their advisor of choice). Both Parties will have 10 business days to inspect, review, and respond to the evidence. All responses to the evidence must be submitted by the Party in writing to the investigator. The investigators will consider all timely responses submitted by the Parties.

(g) **Completed Investigation Report.** The completed investigation report will outline each of the allegations that potentially constitutes conduct that violates this Policy, provide the timeline (e.g. procedural steps) of the investigation, and objectively summarize relevant evidence, participant statements, and responses to questions. For allegations joined to this track under IX(D)(2) above, the allegations will be handled in the same manner. The investigator will provide a completed investigation report concurrently to both Parties and each Party's advisor, if any, upon a Party's signed information release for their advisor of choice at least 10 business days prior to the date of the scheduled hearing to review and provide a written response at the hearing. A copy of the completed investigation report will be issued to the Title IX Coordinator, and to the hearing officer assigned for the hearing.

#### (5) **Live Hearing—Determination of Responsibility.**

- (a) **Live Hearing Requirement.** Absent a Formal Complaint dismissal or the Parties' decision to pursue the Restorative Practices Alternative, the University will provide a live hearing for all Formal Complaints subject to this Grievance Process Track A. The University representative will present information regarding the case at the hearing and will have the ability to present information and witnesses, question witnesses, and provide opening and closing statements at the hearing.
- (b) **Written Notice of the Hearing.** The University will provide at least 10 business days written notice to participants of the hearing (and the Party's advisor, if any, upon Party's signed information release for their advisor of choice), including the date, time, location, names of all participants of the hearing (including the hearing officer, and all Parties and participants in the investigation report), purpose of the hearing, a statement of the alleged conduct charges, and a summary statement of the evidence gathered.
- (c) **Challenges to the Hearing Officer.** Either Party may challenge the fairness, impartiality or objectivity of a hearing officer. The challenge must be submitted in writing to the hearing officer through the office coordinating the hearing within 4 business days after notice of the identity of the hearing officer, and must state the reasons for the challenge. The Chief Compliance Officer or its designee will be the sole judge of whether the hearing officer can serve with fairness, impartiality, and objectivity. In the event that the hearing officer recuses themselves, an alternative hearing officer will be assigned in accordance with University Compliance Services' procedures.
- (d) **Hearing Officer Duties at the Hearing.** The hearing officer will rule on all procedural matters and on objections regarding exhibits and testimony of participants at the hearing, may question participants who testify at the hearing, and is entitled to have the advice and assistance of legal counsel from the Office of General Counsel of The University of Texas System.
- (e) **Access to Evidence.** Each Party will have access to all of the evidence from the investigation, including a copy of the completed investigation report, as outlined in Section X(D) (4)(g) above.
- (f) **Separate Rooms and Virtual Participation.** At the request of either Party, the University will provide the hearing to occur with the Parties located in separate rooms with technology enabling the hearing officer and the Parties to simultaneously see and hear the participants answering questions. Participants may appear at the hearing virtually, and are not required to be physically present in the same physical location of the hearing.
- (g) **Opening Statements.** Each party may make opening and closing statements.
- (h) **Privileged Information Excluded.** No person will be required to disclose information protected under a legally recognized privilege. The hearing officer must not allow into evidence or permit or rely upon any questions or evidence that may require or seek disclosure of such information, unless the person holding the privilege has waived the privilege. This includes information protected by the attorney-client privilege.
- (i) **Advisor of Choice.** Each Party must have an advisor. Each party may have an advisor of their choice at the hearing. If a Party does not have an advisor, the University must provide one. Advisors are not permitted to actively participate in the hearing, except for asking questions of

the other Party and any other witnesses. In addition, witnesses may have an advisor of their choice at the hearing.

**(j) Questioning Participants.** The hearing officer may, at the hearing officer's discretion, ask questions during the hearing of any Party or witness and may be the first person to ask questions of any Party or witness. Each Party's advisor will have an opportunity to ask relevant questions and follow-up questions of the other Party and of any witnesses that participate in the hearing, including questions that challenge credibility. Parties will rely on their advisors to ask their questions directly, orally, and in real time at the hearing. The Parties will not be permitted to personally ask questions of the other Party or any witnesses that participate in the hearing.

**(i) Questions Procedure.** The University representative and Advisors will ask questions under the following procedure:

- The University representative or advisor will ask a question of the applicable participant.
- Before the participant answers a question, the hearing officer will rule as to whether the advisor's question is relevant to the alleged conduct charges.
- If the hearing officer rules the advisor's question as not relevant, then the hearing officer must explain any decision to exclude a question as not relevant. If the hearing officer allows the question as relevant, the participant will answer it.

**(ii) Prior Sexual History.** A Complainant's sexual predisposition or prior sexual behavior are not relevant except where questions and evidence about a Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct charged by the Complainant or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove the Complainant's consent of the alleged conduct.

**(k) Hearing Officer Determination.** The hearing officer will prepare an initial draft written determination, which must include the following:

- The allegations that potentially constitute a conduct violation of this Policy;
- A description of all of the procedural steps of the Grievance Process under this Policy (from receipt of a Formal Complaint to the Hearing Decision);
- The findings of fact supporting the hearing officer's determination;
- The conclusion(s) and a rationale as to whether the Respondent is responsible for each allegation;
- The remedies, if applicable, designed to restore the Complainant's access to the education program or activity; and
- The institution's procedures and permissible bases for the Parties to appeal, if applicable.

If the hearing officer finds the Respondent responsible for any alleged violations, the initial draft determination will be referred to the appropriate decision makers for decision regarding disciplinary sanctions, as follows:

- If the Respondent is a student, it will be referred to the Dean of Students for discipline decision;
- If the Respondent is faculty, it will be referred to the Executive Vice President and Provost for discipline decision; and
- If the Respondent is staff, it will be referred to the Associate Vice President of Human Resources for discipline decision.

Decision makers will provide the discipline decisions to the hearing officer within 10 business days of the hearing officer's referral to the decision maker. Upon receipt of the discipline decisions from the respective decision makers, the hearing officer will incorporate the discipline sanctions to prepare the completed written report. The completed written report will include all components required in the initial draft written report and the disciplinary sanctions imposed.

The hearing officer will send a copy of the completed written hearing determination concurrently to the Parties, the Title IX Coordinator, and the Dean of Students or Executive Vice President and Provost or Associate Vice President of Human Resources.

**(l) Recordings.** The hearing will be recorded in audio or audiovisual format, or transcribed. The University maintains the discretion to determine which method of recording to employ. The recording or transcript, if applicable, will be available for the parties to inspect and review, upon request.

**(6) Appeal of Hearing Determination.**

**(a) Basis for Appeal.** Either Party may appeal in writing a hearing officer's determination regarding a Respondent's responsibility under the Grievance Process or from the University's dismissal of a Formal Complaint (or any allegations in the Formal Complaint) within 10 business days of notification of such a determination, on the following bases:

- A procedural irregularity that affected the outcome of the matter;
- There is new evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
- A challenge to the hearing officer's application of the standard of proof to the evidence; or
- The Title IX Coordinator, investigator(s), or hearing officer had a conflict of interest or bias for or against the parties (generally, or specifically in this matter) that affected the outcome of the matter.

**(b) Impartial Appellate Officer.** The appellate officer must not be the same person as the Title IX Coordinator, investigator(s), or hearing officer in the Grievance Process. Both Parties will be notified in writing when an appeal is filed and the appeal procedures will apply equally for both Parties.

**(c) Statement of Support.** Any non-appealing Party (or the University) will have 7 business days from the notification of an appeal to submit a written statement in support of the outcome.

**(d) Final Determination.** The decision-maker on the appeal will release a written decision within 21 business days from the date of the appeal that either:

- Affirms the hearing officer's determination regarding the Respondent's responsibility and its attendant disciplinary sanctions and remedies, if applicable;
- Remands the matter back to the live hearing stage for the hearing officer to remedy any procedural irregularity or consider any new evidence; or
- Reverses the hearing officer's determination of the Respondent's responsibility and the attendant disciplinary sanctions and remedies, if applicable.

**(7) Grievance Process Documentation.** University Compliance Services will retain all of the documentation included in the Grievance Process Track A (outlined in Section IX of this Policy) for seven years, in accordance with state and federal records laws and University policy. All documentation of records is private and confidential to the extent possible under law. Student records of the Grievance Process are disciplinary records under FERPA. Employee records of the Grievance Process are subject to the Freedom of Information Act (FOIA) and the Texas Public Information Act (TPIA), and included in the employee's official employment record.

**(8) Grievance Process Track A Timeframe.** The entire Grievance Process Track A, outlined in Section IX(D) of this Policy, including any appeal, will generally be completed in no more than 165 business days from the filing of the Formal Complaint.

However, at its discretion, the University may temporarily delay the grievance process or provide a limited extension of its usual time frames for good cause with written notice to the Parties of the reasons for and the delay. Good cause considerations may include, but are not limited to, the absence of a Party, the Party's advisor, or a witness; concurrent law enforcement activity or civil proceeding; or the need for language assistance or other accommodation. The time period in this section does not include the period the Parties attempted, but failed, to reach a resolution using the Restorative Practices Alternative, if applicable. In such a case, the Grievance Process timeframe will be extended by the time the Parties spent exploring that alternative.

Delay decisions will be made on a case-by-case basis. The University will not, as a matter of course, wait for the outcome of a concurrent criminal or civil justice proceeding to take action on a Formal Complaint in its Grievance Process. The University has an independent duty to respond to Formal Complaints of violations of this Policy.

## **E. Grievance Process Tracks B & C.**

**1. Application.** Grievance Process Tracks B & C in this Policy apply in all instances covered by this Policy that do not meet the applicability requirements for the Grievance Process Track A in Section IX(D)(1) above.

(a) Grievance Process Track B. This track applies when all of the following conditions are met:

(i) the alleged conduct includes Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Harassment *and* the alleged conduct occurred as off-campus conduct

*and* the conduct substantially affect a person's education or employment with the University or poses a risk of harm to members of the University community; and

(ii) the Respondent is a student (including a student employee) or employee at the time of the alleged conduct.

There may be instances where the same nucleus of underlying facts gives rise to an allegation assigned to the Track B process and simultaneously gives rise to additional allegations of other policy or rule violations not typically covered by Track B. When this occurs, those additional allegations will be joined, for all purposes, to the allegations assigned to Track B. Then, all allegations arising from the same nucleus of underlying facts will be handled through the Track B process.

This joining provision controls even when the additional allegations otherwise would have fallen under a different grievance process. Once an allegation is joined to a Track B matter because of its origin from the same nucleus of underlying facts, Track B is the exclusive process and remedy available for handling that allegation.

This track follows the investigation, hearing, and appeals processes and requirements set at Sections IX(D) (4) above.

(b) Grievance Process Track C. This track applies in all instances of alleged conduct under this Policy that are not covered by Grievance Process Tracks A or B, or joined to allegations assigned to those tracks. These instances include allegations of conduct that potentially constitute Sex Discrimination, Sexual Exploitation, Unprofessional/Inappropriate Conduct, Retaliation, False Information or False Complaint, Interference with Grievance Process, or Failure to Report by a Non-Confidential Employee, as defined in Section VII(A-G) above.

(i) Written Notice of Formal Complaint. After receiving a Formal Complaint, the Title IX Office will provide written notice to the Parties of the alleged violations and the assigned grievance process track.

(ii) Investigations. The Investigations Unit in University Compliance Services handles investigations of alleged violations of this Policy, by students and employees, as described here. The investigator will prepare a written investigation report that will outline each of the allegations that potentially constitutes a conduct violation of this Policy, provide the timeline of the investigation, and fairly summarize relevant evidence, participant statements, and responses to questions, and include a statement of finding of violation or no finding of violation and the related rationale. When the alleged conduct under this track, or alleged conduct that may implicate any university rule or policy, arises from the same nucleus of underlying facts giving rise to alleged conduct that is being investigated under Tracks A or B, then the allegations will be made a part of the related Track A or B investigation, hearing, and appeals processes, and all other requirements set out at Sections IX(D) (3-8) above.

(iii) Investigation Report Referral. The completed investigation report will be provided to the appropriate decision-makers for disciplinary determinations, as follows:

- If the Respondent is a student, it will be referred to the Dean of Students for discipline decision, in accordance with University's student disciplinary procedures;
- If the Respondent is faculty, it will be referred to the Executive Vice President and Provost for discipline decision, in accordance with the University's policies for discipline and termination of faculty; and

- If the Respondent is staff, it will be referred to the Associate Vice President of Human Resources for discipline decision, in accordance with the University's policies for discipline and termination of staff.

(iii) **Grievance Process Track C Appeals.** Students and non-faculty employees can grieve the investigation findings and/or the assigned discipline outcome. Faculty can only grieve discipline outcomes. In order to appeal a finding or discipline, students will follow Chapter 11 of Appendix C to the General Information Catalogue. Students can access more information on Dean of Students' student conduct website here. Faculty will follow the procedures set out in HOP 2-2310, and staff will follow the procedures set out in HOP 5-2420. Faculty and staff can access more information about the appeal process at the Office for Inclusion and Equity's Procedure and Practice Guide.

## **F. Restorative Practices Alternative**

The University recognizes that in some circumstances, pursuing restorative practices in lieu of the formal grievance process tracks is preferable to the parties involved. When appropriate, the University supports and encourages the benefits available through this alternative resolution path. You can learn more about this option here.

For Formal Complaints that would otherwise be within the Grievance Process Tracks A or B (above at Sections IX(D) and IX(E)(1)(a)), if the Parties were not pursuing an alternative resolution path, the following provisions apply:

- (1) Availability.** The Restorative Practices Alternative may be an appropriate means of addressing some incidents reported under this Policy. It is not available to address Formal Complaints of Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Harassment against an employee where the Complainant is a student.
- (2) Agreement and Approval Required.** To invoke this alternative, after the parties have been provided a copy of the written notice of a Formal Complaint, both parties must, in writing, voluntarily agree to use this alternative. The Restorative Practices Alternative means the parties forgo the Grievance Processes (including the investigation and hearing, depending on when the parties agree to engage in the alternative). The Title IX Coordinator's approval of the parties' voluntary agreement is necessary to proceed with the alternative.
- (3) Revocation of Alternative.** At any time prior to agreeing to a resolution, any party has the right to withdraw from the Restorative Practices Alternative, and resume the appropriate grievance process of the Formal Complaint.

## **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, staff, and other University affiliates. Appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents and 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 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 violations, investigatory procedures, due process requirements, conducting a hearing, state and federal laws, and University policies related to or described in this policy. The University is committed to protecting the safety of all

persons involved, including complainants and witnesses, and the due process rights of respondents, as well as promoting accountability

## *X. The University of Texas at Austin Title IX Office.*

The Title IX Office is committed to supporting the University's mission to create and maintain an educational and work environment free from all forms of sexual assault, interpersonal violence (including domestic and dating violence), stalking, and sexual harassment (including harassment on the basis of sexual orientation, gender identity, gender expression, or pregnancy status), where students, faculty, and staff can learn, work and thrive. The Title IX Office seeks to provide leadership pertaining to the Title IX regulations, as well as develop and implement best practices for prevention, training, resources and support services at The University of Texas at Austin. To learn more about the Title IX Office, including our services, how to report, and frequently asked questions, please visit the Title IX Office website.

This Policy will be made available to all University online at <https://titleix.utexas.edu/policies> [insert website link] and in University student catalog(s) and any employee handbook of operating procedures. Periodic notices will be sent to University administrators, faculty, staff and students about the Policy, including but not limited to at the beginning of each fall and spring semester. The notice will include information about conduct prohibited under this Policy, including the Formal Complaint procedure, the University Grievance Process, and available resources, such as support services, health, and mental health services. The notice will specify the right to file a Formal Complaint under this Policy, right to file a police report to law enforcement, the Title IX Coordinator's contact information, and will refer individuals to designated offices or officials for additional information.

## *XI. Related Information*

Visit the [Title IX Office website](https://titleix.utexas.edu/policies) (<https://titleix.utexas.edu/policies>) for a list of state and federal laws and regulations, Regents Rules, and other University rules and policies related to this Policy.

## *XII. History*

Last review date: September 9, 2021

- Editorial changes made September 9, 2021
- Editorial changes made August 20, 2021
- Substantive and editorial changes made August 2020 to comply with state and federal law changes.
- Substantive and editorial changes made December 2019 to comply with state law changes.
- Editorial changes made August 8, 2018
- Editorial changes made February 17, 2016
- Policy replaced the former HOP 3-3030 "Sex Discrimination and Sexual Harassment" and HOP 3-3040 "Sexual Misconduct" retired effective July 1, 2015 when HOP 3-3031 became effective.
- Editorial changes made July 10, 2015 and July 17, 2015

Next scheduled review: August 2022

## *I. Scope & Audience*

None

## ***II. Definitions (specific to this policy)***

None

## ***III. Website (for policy)***

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

## ***IV. Contacts***

None

## ***V. Forms & Tools***

None

## ***VI. Frequently Asked Questions***

None

## ***VII. Related Information***

None

## ***VIII. History***

Editorial changes made: September 9, 2021