



TEXAS SOUTHERN UNIVERSITY
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Title IX
AREA: Employee Relations & Compliance
SUBJECT: Sexual Misconduct Policy and Procedures

Policy 02.07.01

1. Introduction:

- 1.1 Institutional Values. The Texas Southern University is committed to creating and maintaining educational communities in which each individual is respected, appreciated, and valued. The University diligently strives to foster an environment that permits and encourages everyone to perform at their highest levels. The University's focus on tolerance, openness, and respect is key in providing every member of the University community with basic human dignity free from harassment, exploitation, intimidation or other sexual misconduct. Any report of behavior that threatens our institutional values and breaches this Policy shall be promptly investigated and remediated in accordance with principles of law, fairness, and equity to all Parties involved.
- 1.2 Purpose of Policy. Sexual Misconduct, as defined in the Glossary herein, is a form of sex discrimination and will not be tolerated. The University will maintain an environment that promotes prompt reporting of all types of Sexual Misconduct and timely and fair resolution of Sexual Misconduct complaints. The University will take prompt and appropriate action to eliminate Sexual Misconduct, prevent its recurrence, and remedy its effects. This Policy defines and describes prohibited sexual conduct, establishes procedures for processing complaints of sexual misconduct, permits appropriate Sanctions, and identifies available resources. Further, this Policy is to comply with the 2019 House Bill 1735 and Texas Senate Bill 212 along with any codifications (*Tex. Educ. Code*, Section 51.281 *et seq.*) relating to harassment at universities.
- 1.3 Notice & Applicability of this Policy. The University complies 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. Sexual misconduct, as defined in this Policy, constitutes a form of sex discrimination prohibited by Title IX and Title VII.

This Policy applies to all employees within the University. This Policy prohibits Sexual Misconduct committed by or against a student, faculty, staff, or Third Parties. (Please refer to Title IX Policy on student reporting requirements related to Sexual Misconduct). This Policy applies to Sexual Misconduct:

- 1.3.1 On University Premises,

- 1.3.2 At University-Affiliated Programs or Activities,
- 1.3.3 That has an adverse impact on the education or employment of a member of the University community, and
- 1.3.4 That otherwise threatens the health and/or safety of a of the University community.

Overall, the effective date of this Policy is September 1, 2019, unless otherwise indicated herein.

- 1.4 Extent of Authority. While the University is committed to investigating all complaints of Sexual Misconduct and there is no geographical limitation to invoking this Policy for University-Affiliated Programs and Activities, Sexual Misconduct that is alleged to have occurred at a significant distance from the University and/or outside the University property may be difficult for the University to investigate.
- 1.5 Effect of Criminal Prosecution, Continuation of Proceedings. Proceedings under this Policy will not be dismissed or delayed because criminal investigation or prosecution is pending, or charges have been reduced or dismissed. Proceedings may also continue if a Party is no longer employed with or enrolled as a student of the University.
- 1.6 Sexual Misconduct Policy. This Policy has been adopted for the University as its Policy on Sexual Misconduct. It shall be made available to students, faculty, and staff by including it in the University's web page on the University's website dedicated solely to the Policy that is easily accessible through a clearly identifiable link on the University's internet website home page. Accordingly,
 - 1.6.1 The University shall email students the protocol for reporting incidents of sexual assault, including the Title IX Coordinator's name, office location and contact information at the beginning of each semester or academic term;
 - 1.6.2 The University shall permit employees to electronically report allegations of Sexual Misconduct;
 - 1.6.3 Electronic reporting of incidents of Sexual Misconduct shall be permitted to be made anonymously; and
 - 1.6.4 Electronic reporting of incidents of sexual misconduct shall be accessible through a clearly identifiable link on the University's website home page.
- 1.7 Conflicts of Interest. In any situation where the Title IX Coordinator has a conflict of interest, the University shall take all necessary measures to address such conflict of interest.

2. **Definitions:** Please refer to the Glossary herein.

3. **Reporting:**

- 3.1 Employees That Must Report. An employee who receives a report of Sexual Misconduct must report to the Title IX Coordinator or designee, all relevant details about the alleged sexual misconduct. An employee shall share all information relevant to the investigation,

and if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. A responsible employee should not share information with law enforcement without the alleged victim's consent, unless he/she has also reported the incident to law enforcement.

- 3.1.1 Before an alleged victim reveals any information to an employee, the employee should ensure that an alleged victim understands the employee's reporting obligations. If an alleged victim requests anonymity and confidentiality, direct the alleged victim to Title IX Confidential Employees.
 - 3.1.2 If an alleged victim reports an incident to an employee but also requests confidentiality or requests that the matter not be investigated, the employee should tell the alleged victim that the University will consider the request but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the employee will inform the Title IX Coordinator of the Complainant's request for confidentiality.
 - 3.1.3 An employee must promptly report to the Title IX Coordinator or designee incidents of Sexual Misconduct as defined in this Policy, provided that the employee is in the course and scope of employment, at the time the employee witnesses or receives information regarding the occurrence of Sexual Misconduct; and, the employee reasonably believes the incident constitutes Sexual Misconduct.
- 3.2 No report required. A person is not required to report an incident of Sexual Misconduct, to the Title IX Coordinator or designee if:
- 3.2.1 The person was the victim of such conduct, or
 - 3.2.2 The person received information due to a disclosure made at a public awareness event sponsored by a University or by a student organization affiliated with the University.
- 3.3 Confidential Employees (as defined in the Glossary). The University will identify and provide contact information of Confidential Employees in various locations, including but not limited to the University's website; the student's handbook; Office of Students Services; and Campus Police or Security. These Confidential Employees will assist in a crisis and provide information about possible resources, some of which may include law enforcement, medical assistance, psychological counseling, victim advocacy assistance, legal assistance, disciplinary action, immigration services, and criminal prosecution. Training for Confidential Employees is to be through their professional organizations, if any, and through the Title IX Coordinator.
- 3.3.1 A Confidential Employee who receives information about an incident of Sexual Misconduct shall report to the Title IX Coordinator or designee only the type of incident reported. A Confidential Employee shall also provide such information to the campuses' Clery Act Coordinator for purposes of the campus Clery Act Report.

- 3.4 Anonymity Requests. When considering reporting options, Complainants should be aware that Confidential Employees as described in the Glossary, are permitted to honor a request for anonymity and can maintain confidentiality. Most University personnel have mandatory reporting and response obligations, regardless of the Complainant's request for anonymity or confidentiality. Once a complaint is made to an employee, the University must balance a Complainant's request for anonymity and confidentiality with the responsibility to provide a safe and non-discriminatory environment for the University community. The University will protect a Complainant's request for anonymity and confidentiality by refusing to disclose his or her information to anyone outside the University to the maximum extent permitted by law.
- 3.5 Interim Measures when Anonymity is Requested. The University's inability to take disciplinary action against an alleged Respondent because of a Complainant's insistence on anonymity, will not restrict the University's ability to provide appropriate measures for the reasonable safety of the University community. The Complaint may also be used as an anonymous report for data collection purposes under the Clery Act.
- 3.6 Breaches of Confidentiality. Breaches of confidentiality or privacy committed by anyone receiving a report of alleged Sexual Misconduct or investigating the report of alleged Sexual Misconduct, may be considered a separate violation of this Policy and may result in disciplinary sanctions.
- 3.7 Victim-Reporting Options. Although a victim of Sexual Misconduct may decline to report the incident, the University supports, encourages and will assist those who have been the victim of Sexual Misconduct to report the incident to any individual or entity listed herein. A victim of Sexual Misconduct is encouraged to report to any of the sources below:
- 3.7.1 Local Law Enforcement. A victim may report an incident of Sexual Misconduct directly with local law enforcement agencies by dialing 911. Such individuals who make a criminal complaint may also choose to pursue a complaint through the Title IX Coordinator.
- 3.7.2 University Police or Security. A victim may also report an incident of Sexual Misconduct to the University police or security. Reporting to such officials helps protect others from future victimization; apprehend the alleged Respondent, and maintain future options regarding criminal prosecution, University disciplinary action, and/or civil action against the alleged Respondent. The University employs sworn peace officers, a victim may request that his or her identity be kept confidential when reporting Sexual Misconduct to a sworn peace officer. Filing a police report does not obligate the victim to continue with criminal proceedings or University disciplinary action. The University shall provide the victim contact information for their campus police or security personnel.
- 3.7.3 Title IX Coordinator. Any incident of Sexual Misconduct may be brought to the attention of the Title IX Coordinator or designee. Although the University strongly encourages reporting Sexual Misconduct to the police, a victim may request administrative action by the University with or without filing a police report.

- 3.7.4 Office of Students Services. Any incident of Sexual Misconduct may be brought to the attention of the Office of Students Services. Although the University strongly encourages reporting Sexual Misconduct to the police, a victim may request administrative action by the University with or without filing a police report. The Office of Students Services will promptly inform the Title IX Coordinator or designee of the complaint.
- 3.7.5 Campus Security Authority. A victim of Sexual Misconduct may report to a Campus Security Authority (CSA) as defined in each University's Annual Security Report. The CSA will promptly inform the Title IX Coordinator or designee of the complaint. The University will identify and provide complete contact information for their CSA in various locations, including but not limited to, the University's web page; the student's handbook; the annual security report; and the Dean of Students Office.
- 3.7.6 Human Resources. A victim of Sexual Misconduct may report to the Human Resources Department, which will promptly inform the Title IX Coordinator or designee of the complaint.
- 3.7.7 Employee. A victim may report alleged Sexual Misconduct to an Employee, who will promptly inform the Title IX Coordinator or designee, except as provided by Section 3.2.
- 3.7.8 Anonymous Reports. The University shall provide the phone number and web address available for anonymous reports. Victims who choose to file anonymous reports are advised that it may be very difficult for the University to follow up and/or take action on anonymous reports, where corroborating information is limited. Anonymous reports may be used for Clery Act data collection purposes.

- 3.8 Preservation of Evidence. Preservation of evidence is critical in incidents of Sexual Misconduct. Victims are encouraged to go to a hospital for treatment and preservation of evidence as soon as practicable after such an incident if applicable.

- 3.9 Termination for Failure to Report or Making a False Report. The University shall terminate an employee if:
 - 3.9.1 An employee knowingly failed to make a report of Sexual Misconduct when required to do so; or
 - 3.9.2 An employee knowingly made a false report of Sexual Misconduct with intent to harm or deceive.

- 3.10 Confidentiality. The identity of the following individuals is confidential and not subject to disclosure under the Texas Public Information Act, unless such individual(s) waive nondisclosure in writing:

- An alleged victim of an incident of Sexual Misconduct,
- A person who reports an incident of Sexual Misconduct,
- A person who sought guidance from the University concerning such an incident,
- A person who participated in the University's investigation of such an incident; or
- A person who is alleged to have committed or assisted in the commission of Sexual Misconduct, provided that after completion of an investigation, the University determines the report to be unsubstantiated or without merit.

3.11 The Identity of the Individual(s) Referenced in Section 3.10 Herein May Only Be Disclosed to the Following:

- The University, as necessary, to conduct an investigation into the report of an alleged Sexual Misconduct;
- A law enforcement officer as necessary to conduct a criminal investigation;
- A health care provider in an emergency situation, as determined necessary by the University; or
- Potential witnesses to the incident as necessary to conduct an investigation of the report.

3.11.1 Information reported to a health care provider or other medical provider employed by the University is confidential and may be shared by the provider only with the victim's consent.

3.11.2 Health care providers must provide aggregate data or other non-identifying information regarding incidents of Sexual Misconduct to the University's Title IX Coordinator or designee.

3.12 If the individual referenced in Section 3.10 waives nondisclosure in writing, such waiver shall not be construed as a voluntary disclosure for purposes of the Texas Public Information Act.

3.12.1 The alleged Victim may use a pseudonym form when making a report to a law enforcement agency.

3.13 Victim Request Not to Investigate. When weighing a victim's request that no investigation or discipline be pursued, the University may investigate the alleged incident in a manner that complies with the confidentiality requirements as stated in this Policy.

3.14 In determining whether to investigate an alleged incident, the University shall consider:

- The seriousness of the alleged incident;
- Whether the University has received other reports of Sexual Misconduct committed by the alleged Respondent(s);
- Whether the alleged incident poses a risk of harm to others; and
- Any other factors the University determines relevant.

- 3.15 If the University decides not to investigate an alleged incident of Sexual Misconduct, based on the alleged victim's request not to investigate, the University shall take any steps it determines necessary to protect the health and safety of the University's community in relation to the alleged incident.
- 3.16 The University shall inform an alleged victim of Sexual Misconduct of its decision to either investigate or not investigate the alleged incident.
- 3.17 Equal Access. The University shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are persons with disabilities. The University shall make reasonable efforts to consult with a disability services office of the University, advocacy groups for people with disabilities, and other relevant stakeholders to assist the University with complying with the University's duties under this policy.
4. **Interim Measures also known as Support Services:** When an incident of Sexual Misconduct is reported, the University will consider interim measures while the incident is investigated and/or adjudicated.
- 4.1 Measures Imposed by the Title IX Coordinator and/or Investigator. The Title IX Investigator will determine and implement interim measures as appropriate and necessary and to limit potential retaliation. Interim measures may include, but not be limited to:
- 4.1.1 Campus no-contact orders;
 - 4.1.2 Reassignment of housing or work assignments;
 - 4.1.3 Temporary withdrawal or suspension from the University, in accordance with the Student Code of Conduct;
 - 4.1.4 Provide escort or transportation assistance;
 - 4.1.5 Modification of class or work schedules; and/or
 - 4.1.6 Restrictions from specific activities or facilities.
- 4.2 Any interim disciplinary action must comply with the University Faculty Manual, Student Code of Conduct or Manual of Administrative Policies and Procedures.
- 4.3 Failure to adhere to the parameters of any interim measures may be considered a separate violation of this Policy and may result in disciplinary Sanctions.
- 4.4 The University shall maintain as confidential any measures provided to the victim and/or Respondent, to the extent allowed by law and to the extent that maintaining such confidentiality will not impair the ability to provide the measures.

5. Retaliation:

- 5.1 The University takes reports of Sexual Misconduct very seriously and will not tolerate retaliation against those who make such reports or participate in the investigatory or adjudicatory process. Retaliation includes, but is not limited to, any adverse employment or educational action taken for making a report of Sexual Misconduct, or otherwise participating in any way in the process of investigating or adjudicating an incident of Sexual Misconduct. Any actual or threatened retaliation, or any act of intimidation to prevent or otherwise obstruct the reporting, investigating, or adjudicating of sexual misconduct may be considered a separate violation of this Policy and may result in disciplinary Sanctions. Any person who believes that she or he has been subjected to retaliation should immediately report this concern to the Title IX Coordinator.
- 5.2 A University may not discipline or discriminate against an employee who in good faith:
- 5.2.1 Makes a report as required of Sexual Misconduct; or
 - 5.2.2 Cooperates with an investigation, disciplinary process, or judicial proceeding regarding a report of Sexual Misconduct.
- 5.3 This subsection does not apply to an employee who perpetrates an incident of Sexual Misconduct as defined in this Policy.

6. Immunity/Amnesty:

- 6.1 Reporting, investigating, and adjudicating incidents of Sexual Misconduct is of paramount importance. The University does not condone underage drinking, illegal use of drugs or other criminal behavior. However, the University will not take any disciplinary action in relation to or concurrently with an incident of Sexual Misconduct, against a student or Employee of the University for any violation of the University's Faculty Manual, Student Code of Conduct, or Manual of Administrative Policies and Procedures provided:
- 6.1.1 The student or Employee reports or assists in the investigation of a report of an incident of Sexual Misconduct as defined in this Policy;
 - 6.1.2 The student or Employee acts in good faith;
 - 6.1.3 The student or Employee testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such conduct;
 - 6.1.4 The violation of the code of conduct is reasonably related to the incident of Sexual Misconduct; and
 - 6.1.5 The violation of the Code of Conduct is not punishable by suspension or expulsion.
- 6.2 The University may investigate to determine whether a report was made in good faith.
- 6.3 A determination that a student or Employee is entitled to immunity is final and may not be revoked.

- 6.4 Immunity may not be given to a student or Employee who reports his or her own commission or assistance in the commission of Sexual Misconduct.
- 6.5 This section may not be construed to limit the University's ability to provide immunity from application of the University's policies in circumstances not described herein.

7. Prohibition on Providing False Information:

Any individual who knowingly files a false Complaint under this Policy, or knowingly provides false information to University officials, or who intentionally misleads University officials who are involved in the investigation or resolution of a Complaint shall be subject to disciplinary action, including but not limited to employment termination.

8. Comprehensive Prevention and Outreach Program:

The University shall develop and implement a comprehensive prevention and outreach program on Sexual Misconduct. The comprehensive prevention and outreach program must address a range of strategies to prevent Sexual Misconduct. The program must also include a victim empowerment program, a public awareness campaign, primary prevention, bystander intervention and risk reduction strategies. The University will engage in the risk reduction strategies outlined below to limit the risk of sexual misconduct for the campus community.

8.1 Training:

8.1.1 Primary Prevention Training. Each entering freshman and undergraduate transfer student, and new employees shall attend an orientation regarding Sexual Misconduct and the Sexual Misconduct Policy during the first semester or term of enrollment or employment. The University shall establish the format and content of the orientation which may be provided online. The orientation must contain a statement regarding the importance of a victim of Sexual Misconduct going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident. Additionally, primary prevention training programs shall be designed to promote awareness of sexual offenses and to incorporate risk reduction strategies to enable community members to take a role in preventing and interrupting incidents of sexual misconduct. The University training will be based upon research and will be assessed periodically for effectiveness.

8.1.2 Ongoing Sexual Misconduct Training. The University's commitment to raising awareness of the dangers of Sexual Misconduct may include, but is not limited to, offering ongoing education in the form of annual training, lectures by faculty, staff, mental health professionals, and/or trained non-University personnel. Ongoing training may include, but is not limited to, dissemination of informational materials regarding the awareness and prevention of Sexual Misconduct.

8.1.3 Training of Title IX Coordinators, Investigators, Hearing and Appellate Authorities. All Coordinators, Deputy Coordinators, Investigators, and those with authority over Sexual Misconduct hearings and appeals shall receive training each calendar year including, knowledge of offenses, investigatory procedures, due process, and policy and procedures related to Sexual Misconduct.

8.1.4 Trauma-Informed Investigation Training. Each peace officer employed by the University shall complete training on trauma-informed investigation into allegations of Sexual Misconduct.

8.2 Memoranda Of Understanding Required. To facilitate effective communication and coordination regarding allegations of Sexual Misconduct, the University shall enter into a memorandum of understanding with one or more:

8.2.1 Local law enforcement agencies;

8.2.2 Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and

8.2.3 Hospitals or other medical resource providers.

9. **Informal Resolution (Mediation):**

9.1 Eligibility for Mediation. Informal resolution is available and appropriate for claims of Sexual Harassment, only if:

9.1.1 Both Parties are willing to engage in mediation and consent to do so in writing;

9.1.2 The Complainant and the Respondent are both students or are both employees of the University;

9.1.3 The Title IX Coordinator agrees that informal resolution is an appropriate mechanism for resolving the Complaint;

9.1.4 The Complaint involves only Sexual Harassment as described in this Policy and does not involve any other sexual offense, and

9.1.5 Mediation shall be concluded within ten (10) class days.

9.2 Mediation and Agreements. When the Title IX Coordinator determines informal resolution is appropriate and the Parties consent in writing, the Title IX Coordinator will arrange or facilitate mediation in attempt to resolve the complaint. Agreements reached in mediation will be reduced to writing and signed by both Parties. Agreements will be maintained by the Title IX Coordinator in accordance with applicable retention schedule and shared only as necessary to implement the agreed resolution or as required by law.

9.3 Referral for Investigation. When mediation is not successful, or, if in the course of facilitating informal resolution the Title IX Coordinator learns of sexual offenses beyond sexual harassment, the informal resolution process will immediately terminate. The matter will then be referred for investigation in accordance with the procedures outlined herein.

10. Investigation Procedures and Protocols:

10.1 Authority to Investigate. Complaints shall only be investigated and/or resolved at the direction of the Title IX Coordinator.

10.2 Actions Upon Receiving Report. The University's receipt of a report of sexual misconduct:

10.2.1 Assignment. The Title IX Coordinator will review the complaint and investigate or assign the investigation to a Deputy Coordinator or Investigator. The Complainant shall be notified of the name and contact information of the individual assigned. Subsequent references to Investigator in this section refers to the individual investigating the complaint, whether a Title IX Coordinator, Deputy Coordinator, or Investigator.

10.2.2 Initial Meeting with Complainant. As soon as is practicable, the Investigator shall contact the Complainant and schedule an initial meeting. At the initial meeting the Investigator will:

10.2.2.1 Provide an electronic and/or hard copy of this Policy which explains the process and rights of all Parties;

10.2.2.2 Request additional information regarding the reported incident;

10.2.2.3 Explain the investigatory process;

10.2.2.4 Explain the options for reporting to law enforcement authorities, whether on campus or local police;

10.2.2.5 Discuss Complainant's request for anonymity and confidentiality, if such has been requested, and explain that confidentiality may impact the University's ability to investigate fully;

10.2.2.6 Determine whether the Complainant wishes to pursue a resolution; refer the Complainant, as appropriate, to the counseling center or other resources which may include, but are not limited to, law enforcement, medical assistance, psychological counseling, Victim advocacy resources, legal resources, disciplinary action, immigration services, and criminal prosecution;

10.2.2.7 Discuss with the Complainant, possible interim measures as described in this Policy;

10.2.2.8 Inform Complainant and Respondent that, to the greatest extent practicable based on the number of counselors employed by the

University, the University will ensure that each Complainant or Respondent of an incident of Sexual Misconduct, or any other person who reports such incident, are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and,

- 10.2.2.9 Inform Complainant and Respondent of an incident of Sexual Misconduct of the option of dropping a course in which both parties are enrolled without any academic penalty.

10.2.3 Interim Measures. The Title IX Coordinator and/or Investigator will determine and implement interim measures.

10.3 Prompt, Fair, and Equitable Investigation.

- 10.3.1 Timing of Investigation and Resolution. The University shall make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as efficient a manner as possible, with an expectation that the process (exclusive of any appeal procedures) will generally be completed within sixty (60) calendar days of the Complaint, absent extenuating circumstances. The Title IX Coordinator may modify this and any other deadlines contained in this Policy as necessary to accomplish the purposes stated and for good cause, including, but not limited to, the complexity of the investigation and semester breaks.
- 10.3.2 Notice of Investigation and Allegations to Respondent. At the outset of an investigation, the Investigator will provide the Respondent prompt notice of the investigation to include the allegation(s) in writing together with a copy of this Policy. Written notice of the investigation will be provided to the Complainant concurrently with Respondent.
- 10.3.3 Equitable Treatment. Investigator shall not have a conflict of interest or bias and will remain neutral throughout the investigation. Complainant and Respondent shall have opportunities to respond in person and/or in writing, submit relevant documents, and identify relevant witnesses. Complainant and Respondent will receive a minimum of forty-eight (48) hours' notice of any Sanction or appellate meeting, and a minimum of five (5) class days' notice of a due process hearing, if any. Complainant and Respondent may have one representative and/or one advisor present at all meetings a Party has with the Investigator, Title IX Coordinator, Deputy Coordinator or other University administrator related to a complaint. The representative or advisor may provide support, guidance or advice to Complainant or Respondent, but may not otherwise directly participate in the meetings or hearing. Complainant, Respondent and appropriate University officials shall have reasonable and equitable access to all evidence relevant to the alleged violation in the University's possession, including any statements made by the alleged Victim

or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality. Each Party shall be given an opportunity to respond to the investigator's report in writing in advance of the decision of responsibility.

10.3.4 Investigation Activities. Investigator will gather and review information from Complainant, Respondent, and Witnesses. Investigator shall conduct site inspection, if necessary, and obtain other information from sources as appropriate.

10.3.5 Investigative Report. Investigator will complete a written Investigative Report that includes summaries of interviews conducted; photographs, if any; documents and materials received; descriptions of relevant evidence; summaries of relevant electronic records; and a detailed report of the events related to the incident. When Investigator is not the Title IX Coordinator, the Investigative Report will be submitted to the Title IX Coordinator for review and Finding.

11. Standard of Review and Finding:

11.1 Review. The Title IX Coordinator will review the Investigative Report under the "Preponderance of the Evidence" standard as defined in the Glossary.

11.2 Title IX Coordinator Finding and Recommended Sanction.

11.2.1 The Title IX Coordinator will make a written Finding as to whether:

11.2.1.1 No reasonable grounds exist that the Sexual Misconduct Policy was violated, and the matter is closed, or

11.2.1.2 It is more likely than not that Respondent violated the Sexual Misconduct Policy, and the nature of the violation(s).

11.2.2 The Finding shall include the Title IX Coordinator's basis for the decision and recommended Sanctions when there is a Finding of a violation.

11.2.3 Communication of the Finding and Recommended Sanctions:

11.2.3.1 When there is a Finding of no violation of the Sexual Misconduct Policy, the Title IX Coordinator will communicate the Finding in writing simultaneously to the Complainant and Respondent.

11.2.3.2 When there is a Finding that it is more likely than not that Respondent violated the Sexual Misconduct Policy, the Title IX Coordinator will communicate the Finding in writing to the University Administrator with authority to determine and issue appropriate Sanctions.

11.2.3.3 When there is a Finding of a violation by a Respondent employed by the University, the Title IX Coordinator, in consultation with appropriate administrative officials, will provide the Finding to additional individuals, with supervisory authority over the employee, who are not in the line of appellate review.

12. Sanctions:

12.1 Possible Sanctions. Sanctions for a Finding of a Policy violation will depend upon the nature and gravity of the misconduct and/or any record of prior discipline for sexual misconduct. Sanctions include, but are not limited to, the following:

- Withholding a promotion or pay increase;
- Reassigning employment, including, but not limited to demotion in rank;
- Terminating employment;
- Barring future employment;
- Temporary suspension without pay;
- Compensation adjustments;
- Expulsion, suspension or dismissal from the University;
- No-contact orders;
- Probation (including disciplinary and academic probation);
- Expulsion from campus housing;
- Restricted access to activities or facilities;
- Mandated counseling (this may include, but not be limited to educational programs and batterer intervention);
- Disqualification from student employment positions;
- Revocation of admission and/or degree;
- Withholding of official transcript or degree;
- Bar against readmission;
- Monetary restitution;
- Withdrawing from a course with a grade of W, F, or WF; and
- Relevant training.

12.2 Sanction Decision. Within seven (7) business days of receipt of the Finding, the responsible University Representative will issue written Sanctions and send such Sanctions with a copy of the Findings to the Complainant, Respondent, Title IX Coordinator, and when appropriate, additional individuals with supervisory authority over either Party that are not in line of appellate review. The University administrator shall inform Complainant of any Sanction(s) imposed on Respondent that directly relates to Complainant.

12.3 Administrators responsible for imposing Sanctions are:

12.3.1 Student Respondent Sanctions. Office of Student Services will issue Sanctions regarding students. When Respondent is both a student and an employee, the Title IX Coordinator will determine whether the Respondent's status is that of student, staff, or faculty for disciplinary purposes. When Respondent's status is determined to be that of a student employed by the University, the Office of Students Services will consult with the AVP of Human Resources or equivalent prior to issuing Sanctions.

12.3.2 Staff Respondents. The Respondent's supervisor, or other authority within the Respondent's chain of command, will issue Sanctions in consultation with Human Resources.

12.3.3 Faculty Respondents. The Office of Human Resources shall consult with the Department Chair and/or Dean as appropriate and issue Sanctions.

12.4 Student Withdrawal or Graduation Pending Disciplinary Charges. If a student withdraws or graduates from the University pending a disciplinary charge alleging that the student violated the University's Code of Conduct by committing Sexual Misconduct defined in this Policy, the institution may not end the disciplinary process or issue a transcript to the student until the University makes a final determination of responsibility.

12.4.1 The University shall expedite the institution's disciplinary process as necessary to accommodate both the student's and the alleged Victim's interest in a speedy resolution.

12.4.2 On request by another postsecondary educational institution, the University shall provide to the requesting institution information relating to a determination by the University that a student enrolled at the University violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

13. Appeal of Sanctions:

13.1 Right to Appeal. If a Respondent is dissatisfied with the determination of a due process hearing, either Party may appeal. Third Party Complainants or Respondents have no right to appeal Sanctions.

14. Final Decision:

14.1 No Appeal. Decisions and Sanctions imposed under this Policy are final when the period for appeal under the rules and policies referenced herein have expired without initiation of an appeal by either Party.

14.2 Conclusion of Appeal. An appealed Decision is final as outlined in the rules and polices referenced herein.

14.3 Notification of Outcomes. A notice of outcome provided to a Complainant, to include a Finding, Sanction, Decision of a due process hearing, or appeal Decision must include:

- 14.3.1.1 Whether the alleged conduct was more likely than not to have occurred;
- 14.3.1.2 Any Sanction imposed on the Respondent that directly relate to the Complainant; and
- 14.3.1.3 Other steps the school has taken to eliminate the hostile environment, if the University finds one exist(ed), and to prevent recurrence.

15. Administrative Reporting Requirements of the Title IX Coordinator and/or Coordinator's Designee:

15.1 The Title IX Coordinator will submit a written report, once every three months to the President containing the following information:

- 15.1.1 The number of reports received of Sexual Misconduct during the reporting period;
- 15.1.2 The number of investigations conducted during the reporting period;
- 15.1.3 The final dispositions occurring during the reporting period; and
- 15.1.4 The number of reports for which the institution determined not to initiate a disciplinary process during the reporting period.

15.2 The Title IX Coordinator or Coordinator's designee shall immediately report to the President any incident of Sexual Misconduct if the Coordinator has cause to believe that the safety of any person is in imminent danger as a result of such conduct.

16. Administrative Reporting Requirements of the Presidents:

16.1 The President will submit a report to the Texas Southern University Board of Regents, once each academic year in either the fall or spring semester, containing the following information:

- 16.1.1 The number of reports received of Sexual Misconduct during the reporting period;
- 16.1.2 The number of investigations conducted during the reporting period;
- 16.1.3 The final dispositions occurring during the reporting period;
- 16.1.4 The number of reports for which the institution determined not to initiate a disciplinary process during the reporting period; and
- 16.1.5 Any disciplinary actions taken against employees who knowingly fail to report an incident of Sexual Misconduct, when required to do so, or who knowingly with intent to harm or deceive make a false report of such conduct.

16.1.6 The report to the Texas Southern University Board of Regents may not identify any person pursuant to Texas Education Code 51.253 (c) (1).

16.2 The President is not required to submit a report to the Board of Regents for any semester the University has fewer than 1,500 enrolled students unless more than five reports of either sexual harassment, sexual assault, dating violence or stalking were received during that semester.

16.3 The President's report to the Board of Regents shall be posted on the University's internet website.

16.4 The President shall annually certify in writing to the Texas Higher Education Coordinating Board that the University is in substantial compliance with this subsection.

17. Biennial Policy Review:

Each biennium, this Policy shall be reviewed. Any revisions determined necessary shall be brought before the Board of Regents for approval.

18. NOTICE OF TITLE IX COORDINATOR

While compliance with the law is everyone's responsibility at the University, listed below are the University's Coordinator who have primary responsibility for Title IX Compliance

1. Title IX Coordinator

Office of Title IX

Hannah Hall

Texas Southern University

Houston, TX 77004

(713) 313-1371

Duties and responsibilities of the Title IX Coordinator include monitoring and oversight of overall implementation of Title IX compliance at the University, including, but not limited to coordination of training, education, communications, and administration of grievance procedures for faculty, staff, students and other members of the University community

To file a complaint of sexual assault, you may contact the office listed above, and you may also contact:

TSU Department of Public Safety

Texas Southern University

3443 Blodgett Street

(713) 313-7000 (Emergency)

(713) 313-7001 (Non-emergency)

U. S. Department of Education, Office for Civil Rights

You may also file a complaint of illegal discrimination with the Dallas regional office of the U. S. Department of Education's Office for Civil Rights (OCR). Contact information for OCR is:
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
(214) 661-9600
OCR.Dallas@ed.gov

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

Houston District Office
1919 Smith Street, 6th Floor
Houston, Texas 77002
Phone: (800) 669-6820
Fax: (713) 651-4987

GLOSSARY

Business Day is Monday through Friday that the University is in session. Hours and excluded holidays vary, but typically the day covers the period from 9 a.m. to 5 p.m.

Complainant refers to the person making a complaint of sexual misconduct, and shall be referred to herein as either Complainant, or alleged victim, and these terms may be used interchangeably throughout this Policy.

Confidential Employee refers to physical and mental health professionals, including licensed counselors who provide mental health counseling to members of the school community, and those who act under the supervision of a health care employee; and individuals whose scope of employment include confidentiality requirements under Texas law.

Consent is an informed and freely and affirmatively communicated willingness to participate in a particular sexual activity. Consent can be expressed either by words or by clear and unambiguous actions, as long as those words or actions create mutually understandable permission regarding the conditions of each instance of sexual activity. It is the responsibility of the person who wants to engage in the sexual activity to ensure that s/he has the consent of the other to engage in each instance of sexual activity. (The definition of consent for the crime of sexual assault in Texas can be found at *Texas Penal Code*, Section 22.011.)

The University will consider the following factors in determining whether consent was provided:

- 1) Consent is a voluntary agreement or assent to engage in sexual activity;
- 2) Someone who is incapacitated cannot consent;
- 3) Consent can be withdrawn at any time;
- 4) Past consent does not imply future consent;
- 5) Silence or an absence of resistance does not imply consent;
- 6) Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another;
- 7) Coercion, force, or threat invalidates consent; and
- 8) Being intoxicated or under the influence of alcohol, drugs, or any other substance is never an excuse for engaging in sexual misconduct.

Dating Violence is violence committed by a person:

- 1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- 2) Where the existence of such a relationship shall be determined based on a 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
(20 U.S.C §1092) and 34 CFR 668.46 (j)(1)(i)(B).

Employee refers to a campus employee, including members of a campus police or security, who has the authority to redress sexual misconduct; who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or whom a student could reasonably believe has this authority or duty. Responsible employees shall include all administrators, faculty, staff, employees, except:

- 1) Any employee with confidentiality obligations as described as a Confidential Source herein;
- 2) Cafeteria staff who are not assigned administrative duties;
- 3) Custodial staff who are not assigned administrative duties;
- 4) Groundskeeper staff who are not assigned administrative duties;
- 5) Maintenance staff who are not assigned administrative duties;
- 6) Ranch/agricultural staff who are not assigned administrative duties; or
- 7) Staff of campus physical plant who are not assigned administrative duties.

Family (Domestic) 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 or roommate, 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 (*Texas Family Code*, Section 71.004) and 34 CFR 668.46 (a).

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.

New Employee refers to a faculty or staff member who has not been previously employed by the University or whose previous employment with the University was more than one year from his or her latest date of hire with the University.

Notice may be provided via electronic or hard copy methods. Every effort will be made to notify each Party using the same method.

Parties refers to the Complainant and Respondent.

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

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.

Respondent refers to the person accused of sexual misconduct and shall be referred to herein as either Respondent, Alleged Perpetrator, Accused, or Perpetrator, and these terms may be used interchangeably throughout this Policy.

Retaliation means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.

Sex Offenses. Any sexual act directed against another person, without the consent of the Victim, including instances where the Victim is incapable of giving consent.

Sexual assault means an offense classified as rape, fondling, incest, or statutory rape under the uniform crime reporting program of the Federal Bureau of Investigation and/or under the Texas Penal Code §22.011.

Examples of sexual assault include, but are not limited to, the following non- consensual sexual activity:

- 1) Sexual intercourse (vaginal or anal);
- 2) Oral sex;
- 3) Rape or attempted rape;
- 4) Penetration of an orifice (anal, vaginal, oral) with the penis, finger or other object;
- 5) Unwanted touching of a sexual nature;
- 6) Use of coercion, manipulation or force to make someone else engage in sexual touching, including touching of breasts, chest, buttocks and genitalia;
- 7) Engaging in sexual activity with a person who is unable to provide consent; or
- 8) Knowingly transmitting a sexually-transmitted disease to another.

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

Examples of sexual exploitation can include, but are not limited to, the following behaviors:

- 1) Prostituting another;
- 2) Non-consensual electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images without the knowledge and consent of all Parties involved;
- 3) Voyeurism (spying on others who are in intimate or sexual situations);
- 4) Going beyond the boundaries of consent (such as letting friends hide in a closet to watch another friend having consensual sex); or
- 5) Distributing intimate or sexual information about another person without that person's consent.

Sexual harassment means unwelcome, sex-based verbal or physical conduct that:

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

Sexual Intimidation includes but is not limited to:

- 1) Threatening another with a non-consensual sex act;
- 2) Stalking or cyber-stalking; or
- 3) Engaging in indecent exposure as defined in *Texas Penal Code 21.08*.

Sexual Misconduct is 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 Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. All such acts are forms of Sexual Misconduct.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) Fear for his or her safety or the safety of others; or
- 2) Suffer substantial emotional distress (*Texas Penal Code*, Section 42.072) and (20 U.S.C. §1092 (a)).

Statutory Rape. Sexual intercourse with a person who is under the statutory age of consent.

Student refers to any person who has been accepted for admission, or who is currently or was previously enrolled in the University on either a full-time or part-time basis.

Third Party refers to any person who is not a current student or employee of the University, including but not limited to vendors and invited and uninvited visitors.

Third-Party Reporting refers to the submission of a complaint of sexual misconduct by a person on behalf of another person.

Title IX Coordinator is the person who has been designated by each University to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is responsible for conducting the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain the university policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators. The University will identify and provide complete contact information for their Title IX Coordinator and all Deputy Coordinators in various locations, including but not limited to the University's website; the student's handbook; the Office of Student Services; Human Resources; and Campus Police or Security; or their equivalents.

Title IX Investigator refers to the person who conducts the Title IX investigation.

University refers to the Texas Southern University.

University Affiliated Program or Activity refers to any program or activity, on or off campus, which is initiated, aided, authorized or supervised by the University or by an officially-recognized organization of, or within, the University.

University Premises. Buildings or grounds owned, leased, operated, controlled, or supervised by the University including property that is within or reasonably contiguous to the premises owned by the University but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

REVIEW AND RESPONSIBILITIES

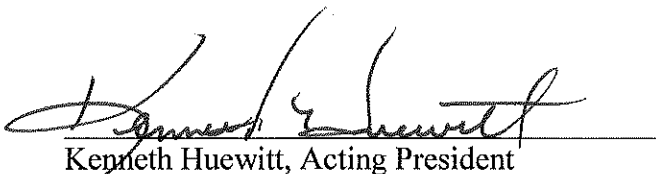
Responsible Party: Title IX Coordinator

Review: Biennial

APPROVALS:



Yolanda Edmond, Sr. Associate Vice President of Human Resources



Kenneth Huewitt, Acting President