



Handbook of Operating Procedures 3-3031

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

**Effective August 25, 2022**

Executive Sponsor: Chief Compliance Officer

Policy Owner: University Title IX Coordinator

<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></p> <p><b>Online reporting:</b> <a href="https://titleix.utexas.edu/file-a-report">https://titleix.utexas.edu/file-a-report</a></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></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, 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 making a false complaint, interfering with this Policy’s Grievance Processes, failure to adhere to interim measures, 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 Coordinator, Title IX Deputies, and staff](#) 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, student organizations, 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, and stalking, 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 available on the [Title IX website](#). Survivors that are not in the Austin area are encouraged to contact the [Title IX Office](#) for assistance in finding healthcare options in their area.

For more information about the SAFE, see [Attorney General of Texas Sexual Assault Exams website](#). The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the sexual 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 the complainant.

If the incident occurred on the University campus, a complainant may file a report with The [University of Texas at Austin Police Department](#), 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](#), 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 Complainant will also have an opportunity to have a crime victim liaison, counselor, advocate, or police officer with specialized training be present with the Complainant 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 an alleged 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. Complainants may contact the [Title IX Office](#) to request assistance in making a police report.

(3). **Counseling and Other Services.** Those who experience sexual violence, interpersonal violence or stalking, are strongly encouraged to seek counseling or medical and psychological care even if the Complainant 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](#) (CMHC). Faculty and staff seeking counseling can get more information from the HealthPoint [Employee Assistance Program](#) (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 Campus Resources](#)" can be found on the University's [Title IX Office website](#).

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, students of the University may speak to Confidential Campus Resources about Prohibited Conduct without the conversation triggering a mandatory report of incident details. **[Confidential Campus Resources](#), or police officers when a survivor uses a pseudonym form (as outlined in Section IV(A)(2) of this Policy) are 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 website](#) maintains an updated and complete list of the different University and community 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 reassignments, 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](#) 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 (Family) Violence:** Includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the domestic or family violence laws of the state of Texas, including the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior by a: (a) current or former spouse or intimate partner of the affected individual, or a person similarly situated to a spouse 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; or, (d) 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, including economic or technological abuse that may or may not constitute criminal behavior, 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.

Domestic Violence and Dating Violence can include Economic Abuse. Economic Abuse means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to: (a) restrict a person's access to money, assets, credit or financial information; (b) unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or (c) exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or

other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

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. **Technological Abuse.** In the context of sexual assault, interpersonal violence, and stalking, Technological Abuse means an act or pattern of behavior that is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, communication technologies, or any other emerging technologies.

E. **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.** The use of unreasonable pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including psychological or emotional pressure, physical or emotional threats, intimidation, manipulation, or blackmail that causes the person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they eliminate a reasonable person's freedom of will and ability to choose whether or not to engage in sexual activity.

**(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. Definitions of 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 threatens or takes non-consensual sexual advantage of another person for (1) the person's own benefit, or (2) to benefit anyone other than the affected individual; or (3) with the intent to harm another individual; (4) the behavior described in items one, two, or three 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;
- to cause or attempt to electronically record, video, photograph, or transmit sexual sounds or images of another individual without their Consent;

- forwarding pornographic or sexually offensive material by email, text, or other channels to non-consenting recipients;
- 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 exhibitionism (e.g., the lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola);
- conduct that meets the definition of indecent assault under [Texas Penal Code \(22.012\)](#);
- threatening to disclose or disclosing someone's sexual orientation, gender identity, or gender expression without their Consent;
- lying about using, or intentional removal of, a condom or other contraceptive barrier during sexual activity without the Consent of a sexual partner; 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 students, faculty, staff, other University employees, and University affiliates from engaging in conduct of a sexual or romantic 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 or romantic 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 or romantic 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 or romantic in nature, and whether the individual subject to the conduct construed it as sexual or romantic 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 or romantic 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 or romantic 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:

- attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- at any point, removing, destroying, withholding, or altering documentation relevant to the Grievance Process; or
- 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.**

An employee of a postsecondary educational institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX coordinator or deputy Title IX coordinator. All employees, not designated by the University as Confidential Employees, that knowingly fail to make such a report are subject to disciplinary action, including termination.

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.

#### **H. Failure to Adhere to Interim Measures.**

Any individual who fails to adhere to Interim Measures implemented during the Grievance Process under this Policy, is subject to disciplinary action up to and including dismissal or separation from the University. Failure to Adhere to Interim Measures may include, but is not limited to:

- contacting the other party after a No Contact Directive was issued; or
- entering university property after a party's right to be present on campus was suspended.

### **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 within 10 business days upon receipt of the hearing officer's determination in accordance with the University's student disciplinary procedures. If the violation has a nexus to Respondent's appointment as a student employee, the discipline decision will be made in consultation with the Chief Human Resources Officer and/or Executive Vice President and Provost. 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](#) of the University's General Information Catalog.

#### **B. Sanctions for Employee and Affiliate-Respondents**

Sanctions against University employees will be handled under the University's employment policies governing discipline and dismissal of faculty and staff, respectively. Sanctions against University affiliates will be handled by the human resources staff in consultation with the affected college, school, or unit. The Executive Vice President and Provost will determine sanctions for faculty within 10 business days upon receipt of the hearing officer's determination. The Chief Human Resources Officer will determine sanctions for staff within 10 business days upon receipt of the hearing officer's determination. 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 Chief Human Resources Officer, 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.

**(7) Student.** A person who is currently enrolled at the University, or who is accepted for admission or readmission to the University, or who has been enrolled at the University in a prior term and is eligible to continue enrollment in the term that immediately follows, or who is attending an educational program sponsored by the University while that person is on campus, or who engaged in prohibited conduct at a time when the person met the above criteria. For the purposes of this Policy, individuals who are not currently enrolled at the University remain subject to the disciplinary process for conduct that occurred while they were enrolled

**(8) Legislative Student Organization, Registered Student Organization, and Officially Sponsored, Sponsorship, or Sponsored Student Organization.** Please see [Chapter 6. Student Organizations](#) of the University's General Information Catalog.

## 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](#), via email at [titleix@austin.utexas.edu](mailto:titleix@austin.utexas.edu), via mail at 100 W Dean Keeton, Suite 4. 204, Austin, TX 78712, 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](#); however, anonymous reports may limit the University's ability to respond to the allegations.

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 on the [Title IX Office website](#).

**(2) Filing Formal Complaints.** Any person subject to an alleged incident under this Policy, may [file a Formal Complaint](#) to initiate the appropriate Grievance Process. There are three Grievance Process tracks under this Policy. The Title IX Office maintains [a chart](#) showing the three different tracks and their respective applications, as described below, as explained in Section IX.D., and Section IX.E. of this Policy (including exceptions and details as to applicability). The University recognizes the right of a Complainant 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 was an employee and is 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 or campus community 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 Process Tracks will use the preponderance of the evidence standard, as defined in this Policy. By law, the burden does not shift to the Respondent when the Respondent asserts an affirmative defense; 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, Interpersonal 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/or 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 Notice of the 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 Section 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 54 business days after notice of the identity of the hearing officer, and must state the reasons for the challenge. The Chief Compliance Officer or their 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 by the Department of Investigation and Adjudication.
- (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. [Upon request](#), the Title IX Office can provide an Advisor to the Parties.
- (j) **Questioning Participants.** The hearing officer may, at their discretion, ask questions during the hearing of any Participants and may be the first person to ask questions of any Participants. 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 the issuing of a Notice of the 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 letter 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 Office of the Dean of Students for discipline decision;
- If the Respondent is a faculty member, it will be referred to the Executive Vice President and Provost for discipline decision; and
- If the Respondent is a staff member, it will be referred to the Chief Human Resources Officer 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 determination

letter. The completed written determination letter will include all components required in the initial draft determination letter and the disciplinary sanctions imposed.

The hearing officer will send a copy of the completed written determination letter concurrently to the Parties, the Title IX Coordinator, and the Dean of Students or Executive Vice President and Provost or Chief Human Resources Officer within 21 business days from when the hearing concludes.

(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 Risk and 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 Notice 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.

Delayed 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, Interpersonal Violence, Stalking, or Sexual Harassment *and* the alleged conduct occurred as off-campus conduct *and* 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; 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 or Inappropriate Conduct, Retaliation, False Information and False Complaints, Interference with Grievance Processes, Failure to Adhere to Interim Measures or Failure to Report by a Non-Confidential Employee, as defined in Section VII. A. - G. above.

(i) Written Notice of the 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 Department of Investigation and Adjudication in University Risk and Compliance Services handles investigations of alleged violations of this Policy by students and employees, including faculty, as described here. The investigator will prepare a written Preliminary Investigation Report (PIR) 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) PIR and Access to Evidence. Prior to the completion of the investigation report, the investigator will provide access to the PIR and all relevant evidence obtained 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 PIR. All responses must be submitted by the Party in writing to the investigator. The investigators will consider all timely responses submitted by the Parties.

(iv) Decision Maker Review of PIR. The PIR will be provided to the appropriate decision maker, who may consult with the investigator before the report is finalized regarding the investigation process, evidence collected, and the rationale provided for the determination of a finding or no finding of violation.

(v) If, after reviewing all timely responses, the investigator changes the finding, then the investigator will provide all Parties and their advisor(s) access to an amended PIR and all relevant evidence upon which it is based. The amended PIR will include a summary of relevant information received during the response period and a rationale for the change of finding. Parties will have 5 business days to inspect, review, and respond in writing to the the investigator. The investigator will consider all timely responses submitted by the Parties.

(vi) Completed Investigation Report (CIR) Referral. If there is a finding of violation, the CIR will be provided to the appropriate decision maker for decision regarding disciplinary sanctions as follows:

- If the Respondent is a student, it will be referred to the Dean of Students for disciplinary sanctions decision, in accordance with University's student disciplinary procedures. Prior to issuing a disciplinary sanction, the Dean of Students will consult with DIA regarding the finding of violation. If the violation has a nexus to Respondent's appointment as student employee the disciplinary sanctions decision will be made in consultation with the Chief Human Resources Officer and/or the Executive Vice President and Provost. Any disciplinary sanction imposed will be included in the CIR. If the

disciplinary sanction is suspension or expulsion, Respondent can request to resolve this matter via a hearing procedure. The hearing will be held in accordance with the hearing procedures outlined in Sec. IX. D. (5) – Live Hearing – Determination of Responsibility;

- If the Respondent is faculty, it will be referred to the Executive Vice President and Provost for disciplinary sanctions 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 Chief Human Resources Officer for disciplinary sanctions decision, in accordance with the University’s policies for discipline and termination of staff.

(vi) Grievance Process Track C Appeals. Eligible Respondents can appeal or grieve the assigned discipline outcome.

- Students. Student Respondents can appeal by following HOP 3-3031. Sec. IX. D. (6).
- Faculty. Faculty Respondents will follow the procedures set out in [HOP 2-2310](#) governing faculty grievances.
- Staff. Staff Respondents will follow the procedures set out in [HOP 5-2420](#). Staff respondents are eligible to appeal or grieve an assigned discipline outcome if they are both within the scope of HOP [5-2420](#) and the assigned discipline is something grievable under that policy. If both of those conditions are not met, the staff respondent is not eligible to appeal or grieve a Track C assigned discipline outcome.

## F. Procedures for Title IX Hearings in Primary and Secondary School

For The University of Texas primary and secondary schools, the procedures for Title IX Hearings can be found in the [Process & Policies](#) section of the [Title IX Office website](#).

## G. Restorative Practices Alternative

The University recognizes that in some circumstances, pursuing Restorative Practices Alternative 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.

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 allegations, or 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.

Individuals who are then eligible to participate in this Restorative Practices Alternative must successfully complete an intake meeting with an appropriate staff member(s) of the Center for Equity and Inclusion within 7 business days of receiving the Notice of the Formal Complaint.

**(3) Mutually Agreed Upon Resolution.** At the conclusion of the Restorative Practices Alternative, Parties will have reached a “Resolution Agreement.” Any agreements reached through the Restorative Practices Alternative must be documented with the Center for Equity and Inclusion and the Title IX Office.

**(4) 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.

## **H. 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 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 Coordinator, Title IX Office staff, and all investigators and hearing officers receive training each academic year about Prohibited Conduct, 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, 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 is available to all University members online at the [Title IX Office website](#) 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](#) 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: August 21, 2023

- Editorial changes made August 21, 2023
- Editorial changes made May 11, 2023
- Editorial changes made October 24, 2022
- Editorial changes made August 22, 2022
- 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 2024