

## **Texas Woman's University University Regulation and Procedure**

**Regulation and Procedure Name: Prohibition of Sexual Misconduct**

**Regulation and Procedure  
Number: URP: 01.225**

**Policy Owner: Academic Affairs, Finance and  
Administration, and Student Life**

### **POLICY STATEMENT**

Texas Woman's University ("TWU" or "University") is committed to a safe academic and working environment. It is the policy of TWU to provide an educational and working environment for its students, faculty, and staff that is free from sexual misconduct. TWU will not tolerate any act of sexual misconduct. In accordance with federal and state law, the University prohibits all acts of sexual misconduct in its application and admission processes; educational programs and activities; employment policies, procedures and processes; and university facilities. TWU takes active measures to prevent such conduct and investigates and takes remedial action when appropriate. Individuals who alone, or in concert with others, participate or attempt to participate in prohibited conduct described in this policy are subject to disciplinary action by the University, notwithstanding any action that may be taken by civil or criminal authorities.

### **APPLICABILITY**

Each member of the TWU community, including students and employees, applicants for employment or admission, individuals and organizations conducting business on behalf of or for TWU is protected by these laws and this policy and are also expected to comply with this policy.

All members of the TWU community, including visitors, vendors and contractors, are expected to comply with this policy and are responsible for their conduct whether sexual misconduct takes place on campus or in a different location. In addition to incidents that occur on the University campus, the University may take disciplinary action in response to incidents that take place during official functions of the University or functions sponsored by registered student organizations, or incidents that have a substantial connection to the interests of the University regardless of the location in which the incident(s) occur.

### **DEFINITIONS**

1. “Coercion” means the use of pressure or other oppressive behavior, including express or implied threats of harm, or severe and/or pervasive emotional intimidation which places an individual in fear of immediate or future harm or physical injury or causes a person to engage in unwelcome sexual activity. A person’s words or conduct amount to coercion if they wrongfully limit the other’s ability to freely choose whether or not to engage in sexual activity. Coercion also includes administering a drug, intoxicant, or other substance that impairs the person’s ability to give consent.
2. “Complainant” means an individual or group of individuals who may have been the subject of conduct prohibited under this policy regardless of whether the individual reports the conduct.
3. “Complaint” means a signed document or other report, including verbal reports (if appropriately acknowledged), alleging a violation of this policy.
4. “Confidential Employee” means an employee designated by the University as a person with whom students may speak confidentially concerning sexual misconduct or who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law.
  - a. Under state law, Confidential Employees who receive information regarding incidents of sexual harassment, sexual assault, dating violence or stalking committed by or against a student or an employee of the University, are required to report the type of incident to the Title IX Coordinator (or Deputy Coordinators). Confidential Employees may not include any information that would violate a student’s expectation of privacy. The Confidential Employee’s duty to report an incident under any other law also applies. A confidential employee is not obligated to disclose reports of sexual misconduct that include identifiable information, as required under this policy based on the requirement of the employee’s professional licensure and the nature of their official responsibilities with the University. Confidential employee, as defined in this policy, includes but is not limited to, licensed professional mental health counselors and health care professionals working in those capacities for the University and the employees they supervise, sexual assault advocates as defined in state law, attorneys and employees in the TWU Student Legal Services office, and TWU Offices of General Counsel and Compliance.

- b. Faculty, staff, and other employees who are licensed mental health workers, licensed medical workers, or licensed attorneys but who are not employed in that capacity by the University, such as faculty members in psychology, social work, nursing, etc. are not confidential employees under this policy.
- 5. “Consensual Relationships that Result in Sexual Harassment”: University Regulation and Procedure 01.230 prohibits consensual relationships. The type of relationship addressed in this section is one of an amorous or sexual nature. When disparities in authority are present between two individuals involved in a consensual relationship, questions about professional responsibility and sexual harassment may well arise. What might appear to be consensual, even to one of the parties involved, may in fact not be so, particularly when one of the individuals involved in the relationship is in a subordinate position to the other. Authority or power may be exercised by faculty or employees in management/supervisory positions through the giving of praise or criticism, providing performance evaluations, assigning grades, making recommendations for further studies or future employment, or conferring other benefits, thus diminishing their student’s or subordinate’s actual freedom of choice.
  - a. Examples of consensual relationships that might be construed as sexual harassment include, but are not limited to situations where:
    - i. The subordinate party or student in the consensual relationship feels unwanted pressure to become involved or to continue the relationship;
    - ii. The subordinate party or student in the consensual relationship feels compelled to change behavior or job duties because of the consensual relationship; or
    - iii. The consensual relationship has the purpose or effect of creating a work or academic environment in which others are negatively affected by the existence of that relationship.
- 6. “Consent” means a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness

to engage in any instance of sexual activity establishes a presumptive lack of consent.

- a. Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to engage in sexual activity.
  - b. An individual's manner of dress or the existence of a current or previous dating or sexual relationship between two or more individuals does not, in and of itself, constitute consent to engage in a particular sexual activity. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.
7. "Dating violence" means abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship will be determined based on the complainant's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship.
  - a. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. This definition does not include acts covered under domestic violence.
8. "Discrimination" means conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education because of their sex (including pregnancy), sexual orientation, gender identity, or gender expression.
9. "Domestic (Family) Violence" means an act that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the complainant in fear of imminent physical harm, bodily injury, assault, or sexual assault by a former spouse or intimate partner of the complainant, a person whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the complainant as

a spouse of intimate partner, or a member of a family or household against another member of the family or household.

10. “Employee” means an individual who is employed part-time, full-time, in a temporary capacity as faculty or staff, or on a contractual basis. The term employee does not include an employee appointed into a position requiring student status as a condition of employment.
11. “Harassment” means a form of discrimination that is defined as verbal or physical conduct that is directed at an individual or group because of sex, pregnancy, sexual orientation, gender identity, or gender expression when such conduct is sufficiently severe or pervasive so as to have the purpose or effect of interfering with an individual's or group's academic or work performance; or of creating a hostile academic or work environment.
12. “Improper Conduct of a Sexual Nature” means behavior or conduct of a sexual nature that is unprofessional or inappropriate for the educational or working environment. Behaviors that may constitute sexual misconduct include, but are not limited to:
  - a. Repeatedly engaging in sexually oriented conversations, comments, or horseplay, including the use of language or the telling of jokes or anecdotes of a sexual nature in the workplace, office, or classroom, even if such conduct is not objected to by those present;
  - b. Gratuitous use of sexually oriented materials not directly related to the subject matter of a class, course, or meeting, even if not objected to by those present; or
  - c. Failure to observe the appropriate boundaries of the supervisor/subordinate or faculty member/student relationship, including the participation of a supervisor, teacher, advisor, or coach in an unreported consensual relationship, or sexual relationship with a subordinate employee or student.
13. “Respondent” means an individual or group of individuals identified as possibly having engaged in conduct prohibited under this policy regardless of whether a formal complaint is made.
14. “Retaliation” is any action, treatment, or condition that adversely affects the academic, employment, or other institutional status of a student or employee of the University, visitor, applicant for admission to or employment with the University, because an individual has, in good faith,

participated in a protected activity (e.g. brought a complaint under this policy, opposed an unlawful practice, participated in an investigation, or requested accommodations), including an act intended to intimidate, threaten, or coerce, that is likely to dissuade a reasonable person from opposing sexual misconduct, filing a charge of sexual misconduct, or participating in an investigation regarding sexual misconduct.

15. “Sexual Assault” means sexual contact or intercourse with a person without the person’s consent, including sexual contact or intercourse against the person’s will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. Sexual assault includes:
  - a. Nonconsensual Sexual Contact – Intentional sexual touching, however slight, with any object or part of one’s body of another’s private areas without consent. Sexual contact includes:
    - i. Intentional contact with the breasts, buttock, groin, or genitals;
    - ii. Touching another with any of these body parts;
    - iii. Making another touch you or themselves with or on any of these body parts; or
    - iv. Any other intentional bodily contact in a sexual manner.
  - b. Nonconsensual Sexual Intercourse – Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.
  - c. The following offenses are examples of sexual assault: rape, incest, fondling, and statutory rape.
    - i. 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 Reporting Party.
    - ii. Incest – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - iii. Fondling – The touching of the private body parts of another person for the purpose of sexual gratification,

without the consent of the Reporting Party, including instances where the Reporting Party is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

- iv. Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent.

16. “Sexual Exploitation” means a person taking non-consensual or abusive sexual advantage of another person for their own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited.

- a. Examples of sexual exploitation include recording, photographing, or transmitting images of a sexual nature of another person via webcam, camera, Internet, other electronic device, or other channels without the knowledge and consent of all persons; causing or attempting to cause incapacitation for the purpose of making another person vulnerable to sexual assault; allowing third parties to observe private sexual acts; voyeurism; exposing one’s genitals or causing another to expose one’s genitals; and knowingly exposing HIV or another STD to an unknowing person or to a person who has not consented to the risk.

17. “Sexual Harassment” means unwelcome, sex-based verbal or physical conduct that:

- a. In the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
- b. 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.
- c. Sexual harassment may include:
  - i. Sexual violence, as defined under state law, which includes rape, sexual assault, sexual battery, and sexual coercion;
  - ii. Physical conduct that, depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes, but is not limited to unwelcome intentional touching; or deliberate physical interference with or restriction of movement;

- iii. Verbal conduct, whether oral, written, or symbolic expression, that depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes, but is not limited to explicit or implicit propositions to engage in sexual activity;
  - a. Gratuitous comments, jokes, questions, anecdotes, or remarks of a sexual nature about clothing or bodies;
  - b. Gratuitous remarks about sexual activities or speculation about sexual experiences;
  - c. Persistent, unwanted sexual or romantic attention;
  - d. Subtle or overt pressure for sexual favors;
  - e. Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials;
  - f. Deliberate, repeated humiliation or intimidation based upon sex;
  - g. Repeated and unwanted requests for dates, sexual flirtations, or propositions of a sexual nature;
  - h. Subtle pressure for a sexual relationship;
  - i. Sexist remarks about a person's clothing, body or sexual activities;
  - j. Unnecessary touching, patting, hugging, or brushing against a person's body;
  - k. Direct or implied threats that submission to sexual advances will affect or be a condition of employment, work status, grades, or letter of recommendation; or
  - l. Conduct of a sexual nature that causes humiliation or discomfort, such as use of inappropriate terms of address, and g. sexually explicit or sexist comments, questions or jokes.

18. "Sexual Misconduct" means any act of sex discrimination (including discrimination on the basis of sexual orientation, gender identity or gender



expression), sexual harassment, improper conduct of a sexual nature, sexual assault, sexual exploitation, dating violence, domestic violence, or stalking.

19. “Stalking” means engaging in 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 suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
20. “Student” means any individual who, at the time of the incident, has accepted an offer of admission to the University; has an open academic program; is taking courses at the University, either full-time or part-time and pursuing undergraduate, graduate, or professional studies; is auditing a class; or has any other continuing relationship with the University. This includes, but is not limited to, new students at Orientation, individuals not currently enrolled but who are still seeking a degree from the University, dual credit students, non-degree seeking students, individuals who have completed coursework but are awaiting conferral of a degree, and any other individual enrolled in a course offered by Texas Woman’s University. For the purposes of this Code, an individual who allegedly provided false information or omitted information on an application shall be considered a student. Generally speaking, academic programs close for undergraduate students after one year of non-enrollment and up to two years for graduate students.
21. “Verbal Conduct” means oral, written, or symbolic expressions that:
  - a. Personally, describe or is personally directed at a specific individual or group of identifiable individuals; and
  - b. Is not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea

## **REGULATION AND PROCEDURE**

- I. Filing a Complaint and Reporting Violations of Sexual Misconduct

## A. Reporting by Complainant

An individual who believes that they have been subjected to sexual misconduct should immediately report the incident to the Title IX Coordinator or a Deputy Title IX Coordinator. Students may also report such conduct to the Office of Civility and Community Standards. Employees may also report such conduct to the Office of Human Resources.

## B. Duty to Report

A complaint under this policy may be filed by TWU administrators, faculty, staff, student, or third party based on the alleged conduct of any TWU employee or student, as well as visitors, and others conducting business on behalf of or for TWU regardless of the location at which the alleged offense occurred.

### 1. Students

- a. Students and other individuals, including guests of the TWU, are encouraged to report suspected sexual misconduct to the Title IX Coordinator, a Deputy Title IX Coordinator or the Office of Civility and Community Standards.
- b. As part of the protocol for responding to reports of sexual misconduct TWU shall:
  - i. To the greatest extent practicable, ensure that the complainant or respondent of an incident of sexual misconduct and any other person who reports such an incident are offered counseling services to be provided by a counselor who does not provide counseling to any other person involved in the incident; and
  - ii. To the extent allowed by law and academically practicable, allow complainant or respondent of an incident of sexual misconduct to drop a course in which both parties are enrolled without any academic penalty.

### 2. Employees

- a. Employees and individuals authorized to act on behalf of TWU who witness or receive information regarding the occurrence of an incident that the employee reasonably believes

constitutes sexual misconduct and is alleged to have been committed by or against a student or employee or 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 Title IX Coordinator, Deputy Title IX Coordinator or the Office of Human Resources. Employees who fail to report incidents of sexual misconduct shall be subjected to termination of employment in accordance with the institution's disciplinary procedure. TWU may wish to pursue claims against former students or employees for purposes of potentially barring future dealings with said individuals should an investigation substantiate allegations of sexual misconduct.

- b. With the exception of confidential employees, a report by an employee must include all information concerning the incident known to the reporting person that is relevant to the investigation; and if known, whether an alleged victim has expressed a desire for confidentiality in reporting the incident.
- c. A confidential employee shall, in making a report in compliance with this policy, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy.
- d. An employee is not required to make a report under this section concerning:
  - i. An incident in which the employee was a victim of sexual misconduct;
  - ii. An incident of which the employee received information due to a disclosure made at a sexual misconduct public awareness event sponsored by TWU or by a student organization affiliated with the TWU; or
  - iii. An incident in which the person has either learned of the incident during the course of TWU's review or process or has confirmed with the person or office overseeing the review or process, that the incident has been previously reported.

3. Electronic Reporting

Students and employees may electronically report allegations of sexual misconduct committed against or witnessed by the student or employee, regardless of the location at which the alleged sexual misconduct occurred. Reports of sexual misconduct may be made electronically as follows:

- a. [TWU Homepage](#)
- b. [Title IX Homepage](#)
- c. [Office of Civility & Community Standards](#)
- d. [Office of Human Resources](#)
- e. [Office of Compliance](#)

4. Anonymity

Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone, written or electronic communication; however, electing to remain anonymous may greatly limit TWU's ability to stop the prohibited conduct, collect evidence, or take effective action against individuals accused of violating the policy.

5. Confidentiality

- a. Information related to an investigation of sexual misconduct can be sensitive, and TWU will take appropriate steps to maintain the greatest degree of confidentiality possible and as allowed by law. In all situations, confidentiality is maintained on a strict need-to-know basis; however, confidentiality can only be preserved insofar as it does not interfere with the TWU's obligation to investigate allegations of sexual misconduct that require the University to take corrective action. While TWU does not impose mandates barring individuals from disclosing matters related to its investigations, participants in an investigation will be advised that maintaining confidentiality is essential to protect the integrity of the investigation and will be asked to refrain from

discussing the complaint or investigation during the resolution process.

b. Greater protections of confidentiality as provided by this policy apply to:

- i. An alleged complainant of an incident of sexual misconduct reported to TWU;
- ii. A person who reports to TWU an incident of sexual misconduct who sought guidance from the institution concerning such an incident, or who participated in the institution's investigation of such an incident; and
- iii. A person who is alleged in a report to have committed or assisted in the commission of sexual misconduct if, after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

c. Unless waived in writing by the alleged complainant, the identity of an alleged complainant of an incident reported under this policy:

- i. Is confidential and not subject to disclosure under the Texas Public Information Act; and
- ii. May be disclosed only to:
  - a. Persons employed by or under contract with TWU to which the report is made who are necessary to conduct an investigation of the report or any related hearings;
  - b. A law enforcement officer as necessary to conduct a criminal investigation of the report;
  - c. A health care provider in an emergency situation, as determined necessary by TWU
  - d. The person or persons alleged to have perpetrated the incident, to the extent required by other law; or

- e. Potential witnesses to the incident as necessary to conduct an investigation of the report.
  - d. A disclosure under this policy is not a voluntary disclosure for purposes of the Texas Public Information Act.
  - e. Information regarding an incident of sexual misconduct disclosed to a health care provider or other medical provider employed by TWU as a confidential employee may be shared by the provider only with the victim's consent. The health care provider must provide aggregate data or other non-identifying information regarding those incidents to the institution's Title IX coordinator.
  - f. Nothing in this section may be construed as prohibiting a complainant from making a report to a law enforcement agency using the pseudonym form as proscribed under state law.
6. Retaliation

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

### C. Rights or Responsibilities

TWU shall provide all complainants who allege they have experienced prohibited conduct with information about:

1. Applicable TWU policies and procedures, including TWU's investigation and resolution procedures;
2. Available campus and community resources;
3. The importance of going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;
4. The right to report the incident and to receive a prompt and equitable resolution of the report; and
5. The right to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

## II. Responding to Complaints and Reports of Violations of Sexual Misconduct

A. Complainant Resolution Process. A complaint or report of sexual misconduct filed with the Title IX Coordinator, a Deputy Title IX Coordinator, the Office of Civility and Community Standards, or the Office of Human Resources shall be addressed by the University.

1. Students
  - a. Complaint Investigation

For a complaint or report that is filed where the respondent is a student, the Office of Civility and Community Standards will follow the Student Code of Conduct process. Where the respondent is a student-employee and can be disciplined as both a student and an employee a joint investigation will be conducted by the Office of Civility and Community Standards and the Office of Human Resources.

- b. Complaint Adjudication

When the respondent is a student, the adjudication process as outlined in the Student Code of Conduct will be followed.

- c. Disciplinary Process – Enrolled Student

If the Office of Civility and Community Standards initiates an investigation concerning an allegation that a student enrolled in TWU violated TWU's Student Code of Conduct by committing sexual misconduct the Office of Civility and Community Standards shall:

- i. Provide to the respondent and complainant a prompt and equitable opportunity to present witnesses and other evidence relevant to the alleged violation during the disciplinary process;
  - ii. Ensure that both the respondent and complainant have reasonable and equitable access to all evidence relevant to the alleged violation in the institution's possession, including any statements made by the complainant 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; and
  - iii. Take reasonable steps to protect the respondent and complainant from retaliation and harassment during the pendency of the disciplinary process.
- d. Disciplinary Process – Pending Student Withdrawal or Pending Graduation
- i. If a student withdraws or graduates from TWU pending an allegation that the student violated the TWU's Student Code of Conduct by committing sexual misconduct the Office of Civility and Community Standards:
    - a. May not end the process or issue a transcript to the student until the institution makes a final determination of responsibility; and
    - b. Shall expedite its process as necessary to accommodate both the student's and complainant's interest in a speedy resolution.



- ii. On request by another institution of higher education, the Office of Civility and Community Standards shall provide to the requesting institution information relating to a determination by the Office of Civility and Community Standards that a student enrolled at the institution violated the institution's Student Code of Conduct by committing sexual misconduct.
- e. Disciplinary Process – Amnesty for Students Reporting Certain Incidents
- i. The Office of Civility and Community Standards may not take any disciplinary action against a student who in good faith reports to the institution as the victim of, or a witness to, an incident of sexual misconduct for a violation by the student of TWU's Student Code of Conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the disciplinary process regarding the incident, if any.
  - ii. The Office of Civility and Community Standards may investigate to determine whether a report of an incident of sexual misconduct was made in good faith.
  - iii. A determination that a student is entitled to amnesty is final and may not be revoked.
  - iv. The Office of Civility and Community Standards reserves the right to provide amnesty in its application of its policies in circumstances not described in section (1) above.
  - v. Amnesty for student reporting certain incidents under this policy does not apply to a student who reports the student's own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, or stalking.

## 2. Employees

- a. Complaint Investigation. For a complaint or report that is filed where the respondent is an employee, the Office of Human Resources will follow its TWU Complaint Investigation and Resolution Procedures. Where the respondent is a student-employee and can be disciplined as both a student and an employee a joint investigation will be conducted by the Office of Human Resources and the Office of Civility and Community Standards.
- b. Disciplinary Process – Failure to Report or False Report
  - i. An employee commits an offense if the individual:
    - a. Is required to make a report under this policy and knowingly fails to make the report; or
    - b. With the intent to harm or deceive, knowingly makes a report under this policy that is false.
  - ii. TWU shall terminate the employment of an employee whom TWU determines in accordance with its disciplinary procedure to have committed an offense under this policy.
  - iii. An offense under this policy is a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the actor intended to conceal the incident that the actor was required to report under this policy.
- c. Disciplinary Process – Amnesty for Employees Reporting Certain Incidents
  - i. An employee acting in good faith who reports or assists or cooperates in an investigation of a report of an incident described under this policy or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident:
    - a. Is immune from civil liability, and from criminal liability for offenses punishable by fine only,

that might otherwise be incurred or imposed as a result of those actions; and

- b. May not be subjected to any disciplinary action, discrimination, or retaliation.
- ii. This provision does not apply to a person who perpetrates or assists or cooperates in the perpetration of the incident reported under this policy.

## B. Interim Measures

TWU may implement interim measures, as may be necessary to assure the safety and well-being of the parties involved, to maintain an environment free from harassment, discrimination, or retaliation, and to protect the safety and well-being of community members. Appropriate University officials will decide if and what interim measures are necessary. Such interim measures may include, but are not limited to, separating the complainant's and respondent's academic, working, or housing situations, forbidding contact between parties involved in a complaint, suspending the right of the respondent to be present on campus or otherwise altering the University status of the respondent. Other interim measures may be implemented given the respondent's relationship with the University. These interim measures may be kept in place through the conclusion of any review, investigation, or appeal process. 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.

## C. Request to Not Investigate Under Policy

If a complainant of an incident requests TWU not investigate an alleged incident, TWU may investigate the alleged incident in a manner that complies with the confidentiality requirements of required disclosures of certain individuals involved in the incident.

- 1. In determining whether to investigate the alleged incident, the TWU shall consider:
  - a. The seriousness of the alleged incident;
  - b. Whether the institution has received other reports of sexual misconduct committed by the alleged perpetrator or perpetrators;

- c. Whether the alleged incident poses a risk of harm to others;  
and
  - d. Any other factors the institution determines relevant.
2. If TWU decides not to investigate an alleged incident based on the complainant's request not to investigate, TWU shall take any appropriate steps it determines necessary to protect the health and safety of the institution's community in relation to the alleged incident.
3. TWU shall inform the complainant of an incident who requests the University not investigate the alleged incident of its decision whether to investigate the alleged incident.

#### D. Final Sanctions

If a respondent is found responsible for violating this policy, TWU may impose a sanction on the respondent and initiate additional remedial actions.

1. Students

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

2. Employees

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

### III. Options and Resources

- A. Confidential On-Campus Resources. If a student would like the details of an incident relating to sexual misconduct to remain confidential, they should speak with a campus mental health counselor or a campus health services provider. If an employee would like the details of an incident relating to sexual misconduct to remain confidential they should speak with Employee

Assistance Program counselors. A designated confidential employee or resource may not disclose any communication made by a student or employee unless the student or employee consents in writing to the disclosure or the confidential employee or resource is required to make the disclosure under federal or state law.

- B. Designated Responsible Employees. To ensure conformity with federal and state laws and TWU policies, TWU's Title IX Coordinator and Deputy Title IX Coordinators have been designated as responsible employees for purposes of implementation and compliance of this policy.

## **REVIEW**

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

## **REFERENCES**

Texas Education Code, Chapter 51, Subchapter E – 2 and E – 3

Texas Labor Code, Chapter 21

Title VII of the Civil Rights Act of 1964, as amended

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Pregnancy Discrimination Act of 1978

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

Family Educational Rights and Privacy Act (FERPA), 34 C.F.R. Part 99

Texas Government Code, Chapter 420, Subchapter D

Texas Penal Code, Chapter 22

Texas Penal Code, Chapter 42

Texas Family Code, Chapter 71

[Regent Policy B.20010: Sexual Misconduct Policy](#)

[URP 01.220: Title IX Policy](#)

[URP 01.230: Consensual Relationships](#)

[URP 05.100: Non-Discrimination, Equal Opportunity, and Diversity](#)

[URP 01.235: Resolution Procedures for Complaints of Prohibited Conduct](#)

**FORMS AND TOOLS**

None

<p><b>Publication Date:</b></p> <p><b>Next Review:</b></p>
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