

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

**Regulation and Procedure Name: Resolution Procedures for Complaints of Prohibited Conduct**

**Regulation and Procedure Number: URP: 01.235**

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

## **POLICY STATEMENT**

The Texas Woman's University does not unlawfully discriminate on the basis of race, color, national or ethnic origin, religion, sex, sexual orientation, gender identity, gender expression, age, disability, genetic information, or veteran status in its application and admission processes, educational programs and activities, University facilities, or employment policies, procedures, and processes. The University takes active measures to prevent such conduct and immediately investigates and takes remedial action when appropriate. The University also prohibits and takes actions to prevent retaliation against individuals who report or file a charge of discrimination or harassment; participate in an investigation, or oppose any form of discrimination or harassment.

## **APPLICABILITY**

This policy is applicable to TWU Students, Faculty, and Staff.

## **DEFINITIONS**

None

## **REGULATION AND PROCEDURE**

- I. Guidance on Reporting and Investigations of Alleged Violations of TWU Policies
  - A. How to File a Complaint

An individual may initiate a complaint by visiting Human Resources, the Office of Civility and Community Standards, or the Office of Compliance. Reports of sexual misconduct may also be provided to the Title IX Coordinator or the Deputy Title IX Coordinators. Complaints must be in writing. Verbal statements will be documented into a written complaint.

## B. Duty to Report

1. Employees and individuals authorized to act on behalf of the University who have information regarding the occurrence of an incident that would constitute an allegation of sexual misconduct are required to report the suspected violations to TWU immediately. Employees who fail to report incidents of sexual misconduct shall be subjected to termination of employment in accordance with the institution's disciplinary procedure. Employees and individuals authorized to act on behalf of the University who have information regarding the occurrence of an incident that would constitute an allegation of prohibited conduct other than sexual misconduct are strongly encouraged to report the suspected violations to TWU. Students and other individuals, including guests of the University, are also strongly encouraged to report suspected prohibited conduct.
2. A report of alleged violations of this policy may be made by:
  - a. A person who believes they experienced prohibited conduct (a Complainant); and/or
  - b. A person who has information that prohibited conduct may have been committed (a Reporter).
3. Exceptions to Duty to Report: See Prohibition of Sexual Misconduct Policy for guidelines for confidential employees and reporting.
4. Emergency Reporting: In cases of emergency, TWU encourages all individuals to seek immediate assistance from a medical provider and/or local law enforcement agency. This is the most effective means of ensuring preservation of evidence and initiation of a timely investigative and remedial response. Assistance is available 24 hours a day, year-around by calling the TWU Department of Public Safety at 940-898-2911 and/or the local police department in Denton, Dallas, or Houston.

## C. Complaint Investigation

Once a report of prohibited conduct is received, the University will handle reports of prohibited conduct consistently with procedural guidelines developed to ensure prompt and equitable resolution of such reports. If a

formal investigation is conducted, the University will respond promptly and investigate the report in a fair and impartial manner. At the conclusion of an investigation the Complainant and Respondent will be provided with a final report. If a complainant chooses not to participate in the University's investigation of a report, the University may, at its discretion, pursue the report without the complainant's participation.

#### D. Rights and Responsibilities

1. The University will provide all complainants who allege they have experienced prohibited conduct with information, as appropriate, about
  - a. Applicable University policies and procedures, including the University's investigation and resolution process;
  - b. Rights and University responsibilities with respect to orders of protection, restraining orders, and/or no contact orders and how to obtain such orders;
  - c. Options about the involvement of law enforcement authorities; and
  - d. Available campus and community resources.
2. Coordination with Law Enforcement: For complaints related to allegations of sexual misconduct, the Title IX Coordinator pursuant to TWU's Memorandum of Understanding with local law enforcement agencies shall set forth the process and protocol for the effective communication and coordination of allegations of sexual misconduct with law enforcement for individuals who also wish to pursue criminal action.

#### E. Timeliness of Complaint

Delays in reporting can greatly limit the University's ability to stop the prohibited conduct, collect evidence, and/or take effective action against individuals or organizations accused of violating a policy. Individuals who believe they have experienced or witnessed prohibited conduct should promptly come forward with their inquiries, reports, or complaints and to seek assistance from the University. Employees are required to promptly report incidents of sexual misconduct to the University Title IX Coordinator, a Deputy Title IX Coordinator or other appropriate University offices.

## F. Confidentiality

1. Information related to an investigation of prohibited conduct can be sensitive and the University will take appropriate steps to maintain the greatest degree of confidentiality possible. 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 University's obligation to investigate allegations of prohibited conduct that require the University to take corrective action. Participants in an investigation shall be advised that maintaining privacy 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.
2. If at any point the Complainant requests that their name or other identifiable information be held confidential with respect to the Respondent or decides not to pursue action by the University, the University will make all reasonable attempts to respond to the complaint consistent with the Complainant's request. However, the University's ability to investigate the complaint and respond to the conduct may be limited. Recognizing that the University has a legal obligation to review all reports, the University will weigh the Complainant's request against such factors as the seriousness of the alleged conduct, whether there have been other complaints of a similar nature against the same Respondent, the University's commitment to provide a reasonably safe and non-discriminatory environment, the rights of the Respondent to receive notice and relevant information before disciplinary action is taken, and other obligations as provided for under federal and state law. If the University determines that it is necessary to proceed with the complaint procedure or implement other appropriate remedies, the Complainant will be notified of the University's chosen course of action.

## G. Anonymous Complaints

Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the appropriate University offices. Unsigned written or anonymous complaints will be addressed and investigated as warranted; however, the University's ability to address complaints of this nature, stop the prohibited conduct,

collect evidence, adequately investigate, or take effective action against individuals or organizations accused of violating the policy may be limited. Employees may not report incidents of sexual misconduct anonymously.

#### H. Duty to Cooperate

Faculty and staff must cooperate with University investigations concerning allegations of prohibited conduct. Refusal to cooperate will be reported to the appropriate supervisor(s) and may result in disciplinary action. Students and members of the University community are strongly encouraged to participate in investigations.

#### I. Remedial and Interim Measures

At any time during the investigation, if it is determined that interim measures are required to ensure the safety and well-being of the parties involved, maintain an environment free from prohibited conduct, protect the safety and well-being of the University community, or mitigate potential prohibited conduct during the pendency of the investigation, appropriate University officials will decide what interim protective measures are appropriate and necessary. These measures may include separating the parties' academic or working circumstances, placing limitations on contact between the parties, placing the Respondent on leave or interim suspension pending investigation, reassignment, or making alternative workplace or student housing arrangements. Interim measures are not disciplinary in nature and must be consistent with other University policies. These interim measures may be kept in place through the conclusion of any investigation, sanction, or appeal process. All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by a reasonable interim measure. All individuals are also encouraged to report any acts of retaliation. TWU will take immediate action to enforce a previously implemented measure.

#### J. Employment Action During Pending Investigation

To ensure measures are in place to protect parties from retaliation, any contemplated adverse employment actions towards the Complainant, Respondent, or Witnesses involved in an investigation must be brought to the attention of appropriate TWU officials prior to implementation. Consultation should occur with supervisors, the Provost's Office, Student Life, Human Resources, or the Office of General Counsel, as necessary and appropriate.

#### K. Timeline for Investigations

Reasonable efforts will be made to complete investigations within 60 business days of the date the written complaint was received, giving consideration to the nature of the allegations and the circumstances surrounding the complaint process.

#### L. Individuals Permitted to Participate in Investigative Interviews

If a Complainant or Respondent desires, they may be accompanied to an investigatory meeting by an advisor of their choice. Complainants and Respondents are required to notify TWU of the name and position of the advisor who will accompany them no later than two complete business days in advance of any scheduled meetings. Witnesses in the investigation cannot serve as advisors. The Complainant and Respondent are expected to ask and respond to questions on their own behalf, without representation by their advisor. TWU may consider a refusal to answer a question in reaching a determination on an alleged policy violation. The advisor shall not engage in the use of verbal or non-verbal cues or speak on behalf of the parties.

#### M. Final Sanctions

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

1. Disciplinary action involving faculty and staff will be handled under the University's policies for discipline and dismissal of faculty and staff. Disciplinary action involving students will be imposed by the Office of Civility and Community Standards in accordance with University's student disciplinary procedures.
2. TWU will impose sanctions that are fair and appropriate, consistent with the University's handling of similar cases, adequate to protect the safety of the TWU community, and reflective of the seriousness of the prohibited conduct issue.
3. Disciplinary and remedial sanctions may include, but are not limited to:
  - a. Remedial education/training

- b. A written warning placed in the Respondent's file
  - c. Reassignment of academic and/or employment responsibilities
  - d. Reassignment of student housing and/or class and activity scheduling
  - e. Probation in the case of a student
  - f. Suspension from an academic program or from employment
  - g. Expulsion from the University or termination of employment
4. Education and training sanctions may include, but are not limited to:
- a. Active counseling (clinical and/or psychiatric as determined by a practitioner)
  - b. Alcohol or substance abuse program
  - c. Anger management program
  - d. Assault prevention education/training
  - e. Community service
  - f. Sexual harassment sensitivity education/training

#### N. Prohibition on Retaliation

Retaliation against a person who reports a potential violation of prohibited conduct, assists someone with a report of prohibited conduct, or participates in any manner in an investigation or in the resolution of a complaint made of suspected prohibited conduct 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. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an investigation pursuant to a complaint of prohibited conduct will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this policy. A claim of retaliation may

result in a subsequent investigation. All participants in an investigation will be advised of the University's prohibition against retaliation.

#### O. False Complaints and Statements

Any individual who knowingly makes a false complaint or who provides false information during an investigation conducted under these procedures is subject to disciplinary action, including expulsion, termination of employment, or termination of business relationships with the University. Employees who falsify reports of incidents of sexual misconduct shall be subjected to termination of employment in accordance with the institution's disciplinary procedure. TWU will refer allegations of false complaints to Human Resources when the individual is an employee, and to the Office of Civility and Community Standards when the individual is a student. Inconclusive findings on a report of prohibited conduct or a finding that there has been no violation of the University policy, without more evidence, will not result in a determination that allegations were made falsely or in bad faith.

#### P. Interference with an Investigation

Any person who knowingly and intentionally interferes with an investigation is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an investigation may include, but is not limited to

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

#### Q. Record Retention

TWU shall retain documents related to complaints under this procedure as required by law. The appropriate TWU office charged with the investigation and resolution of a complaint shall be primarily responsible for records related to all complaints in accordance with URP 01.310: Records Retention.



## II. Complaint Intake and Processing

A. Anyone who believes they have been subjected to discrimination, harassment, or retaliation in violation of applicable University policies, may file a complaint with TWU. Those complaints will be investigated pursuant to the procedures detailed in this Resolution Procedures. Human Resources will respond to complaints when the Respondent is an employee. The Office of Civility and Community Standard will respond to complaints when the Respondent is a student. When a Respondent is both a student and an employee, Human Resources and the Office of Civility and Community Standards will conduct the investigation jointly.

### B. Referrals

TWU will evaluate each complaint to determine which office has a duty to investigate. If the initial recipient of the complaint is not the proper office to handle the complaint, the Complainant will be referred to the appropriate office for assistance.

## III. Informal Complaint Process

The purpose of the informal complaint procedure is to encourage the reporting of complaints and to facilitate collegial educational and employment relationships between members of the University community. The University recognizes that conflict in a university setting occasionally occurs and when it does, community members should be supported to work together to resolve disputes and conflicts. TWU provides informal resolution options for complaints of discrimination, harassment, and certain other prohibited conduct and will facilitate a resolution of the complaint without the need for a formal investigation. The informal complaint process is not a prerequisite for filing a formal TWU complaint, and participation in the informal process is entirely voluntary. Deciding not to participate will not be held against either the Complainant or the Respondent. The informal process is as follows:

A. Following the receipt of a verbal or written complaint, the appropriate TWU office will contact the Complainant and Respondent and schedule initial investigatory interviews. The appropriate TWU office will assess the complaint to determine whether informal processing is appropriate, and whether resolution of the complaint can be achieved through informal measures, such as conflict resolution or educational opportunities. An informal resolution focuses on stopping the behavior or conduct without a formal investigation. It is remedies-based and does not include sanctions. If

it is determined that an informal resolution is appropriate, and the Complainant and Respondent both agree to participate, the appropriate TWU office will initiate informal resolution procedures. Informal processing is appropriate when the parties desire to resolve the situation cooperatively. Informal complaints may also be appropriate for responding to anonymous reports or third party reports. TWU encourages informal resolution of a complaint; however, the formal complaint process will be used when the informal process is inappropriate (e.g., allegations of serious prohibited misconduct and reports of a pattern of inappropriate behavior).

- B. The appropriate TWU office will facilitate a meeting or provide guidance to discuss the allegations in an attempt to arrive at an action plan to address the issue. Resolution of informal complaints may include discussions with the parties, making recommendations for resolution, and conducting a follow up review after a period of time to ensure that the resolution has been implemented effectively. Informal complaint resolution could encompass a full range of possible appropriate outcomes including, but not limited to, mediating an agreement between the parties; separating the parties if practicable; interviewing the parties and any relevant witnesses; referring the parties to targeted educational and training programs; or working with appropriate administrators to provide remedies acceptable to the Complainant.
- C. At the successful conclusion of the informal complaint process, the appropriate TWU office will send a written notification of the outcome and the understanding between the parties. If the dispute is not settled during the informal stage, then the matter will advance to the formal complaint process.
- D. At any time during the informal complaint process, the Complainant, Respondent, or representative from TWU can stop the process and advance the complaint to a formal complaint. If the complaint does not allege a policy violation, the complaint will not proceed to a formal complaint.
- E. All written records associated with the resolution of a complaint utilizing the informal complaint process will be maintained with the appropriate TWU office in accordance with URP 01.310: Records Retention.

#### IV. Formal Complaint Process

The purpose of the formal complaint procedure is to determine whether a violation of policy has occurred, and to facilitate and assist with resolution of complaints.

#### A. Notification

1. When a complaint is received by TWU, an evaluation of the complaint will be made, a determination of TWU's duty to investigate and the appropriate office to initiate an investigation will be made, and the appropriate TWU office will contact the Complainant via TWU electronic mail regarding the allegations stated in the complaint.
2. TWU will issue a notice of complaint to the Respondent via TWU electronic mail. If the Respondent is unresponsive to the notice, or cannot be contacted via TWU electronic mail, TWU will make reasonable attempts at notification via other methods. If it is determined that the Respondent cannot be located or the Respondent does not respond to attempts at notification, this fact will be documented and the investigation will proceed to the extent practicable.
3. TWU will notify the Respondent's supervisor and/or other appropriate University officials as needed of the allegations under investigation. In cases where the supervisor is named as a Respondent, TWU will instead provide notice of the allegations to the next appropriate supervisor.

#### B. Investigation

The investigation generally shall include, as appropriate, interviews with the Complainant and Respondent, interviews with Witnesses, and a review of relevant documents. Parties may be interviewed more than once, or may be contacted to clarify an earlier statement.

#### C. Written Responses

Respondents who wish to provide a written response to the allegations against them will be provided an opportunity to do so.

#### D. Witnesses

The Complainant and Respondent may provide TWU with names of individuals whom they wish for TWU to interview. These individuals should

be persons with information based on conduct they have seen, heard, or experienced that is related to the allegations being investigated. TWU will disclose facts to witnesses as reasonably necessary to conduct a fair and thorough investigation. TWU retains discretion to determine which witnesses will be interviewed.

#### E. Investigatory Report

An investigation will result in a written report that, at a minimum, includes a statement of the allegations and issues, an analysis of the information considered, and a determination by the investigator as to whether University Policy has been violated. For all allegations, there are two possible findings based on a preponderance of the evidence standard:

1. Substantiated

It is more likely than not that the relevant policy has been violated, based on the evidence reviewed.

2. Unsubstantiated

There is insufficient evidence to prove or disprove that the relevant policy has been violated, based on the evidence reviewed.

#### V. Procedure Post-Investigation

- A. Upon completion of the investigation, the Complainant and Respondent will receive written notification of the Investigatory Report which may include the determination as to whether the University Policy at issue was violated.
- B. If the Respondent is a student, written notification which includes the determination as to whether the University Policy at issue was violated will be provided in accordance with the URP 06.500: Student Code of Conduct.
- C. If the Respondent is a faculty member, written notification which includes the determination as to whether the University Policy at issue was violated will be provided to the Respondent's vice president and unit department head. Written notification may also be provided to the Respondent's immediate supervisor, as appropriate. The determination contained in the report of investigation, including the finding and determination is final.

- D. If the Respondent is a staff member, written notification which includes the determination as to whether the University Policy at issue was violated will be provided to the Respondent's vice president and unit department head. Written notification may also be provided to the Respondent's immediate supervisor, as appropriate. The determination contained in the report of investigation, including the finding and determination is final.
- E. If the Respondent is a student, faculty member, or staff member and leaves the University with a pending complaint, the University will continue to investigate the allegations and resolve the complaint, including the issuance of sanctions, if appropriate.

## VI. Corrective Measures and Recommendations

- A. For students, the Office of Civility and Community Standards is responsible for implementing sanctions or measures in response to a TWU finding. For faculty and staff members, the implementations of sanctions or measures in response to TWU's finding and determination will be handled in accordance with the faculty and staff disciplinary policies and procedures. Decision-makers are advised to consult with the head of the administrative unit, the Provost, Human Resources, or OGC as appropriate before issuing sanctions.
- B. The Office of Civility and Community Standards, Human Resources, and Compliance may make recommendations for resolution of the complaint allegations to mitigate the risk of future policy violations. These recommendations are directed to individuals who have authority to make decisions to ensure enforcement of the recommendations. These recommendations may include, but not be limited to, educational programs, coaching, official disciplinary action, or other measures as appropriate.
- C. Appropriate TWU offices will be copied on documents authorizing corrective action taken against a Respondent as a result of the investigation's findings.

## **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

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

[URP 01.225: Prohibition of Sexual Misconduct](#)

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

[URP 05.110: Americans With Disabilities Act Policy](#)

[URP 01.230: Consensual Relationships](#)

[URP 01.310: Records Retention](#)

[URP 06.200: Student Code of Conduct](#)

## FORMS AND TOOLS

None

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