

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

**Regulation and Procedure Name: Title IX Policy**

**Regulation and Procedure  
Number: URP: 01.220**

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

### **POLICY STATEMENT**

Texas Woman's University (the "University") is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 ("Title IX"), which prohibits discrimination on the basis of sex in educational programs or activities. A violation of this policy will not be tolerated and the University will promptly discipline any individuals or organizations within its control who violate this Policy. The University strongly encourages the prompt reporting of violations of this Policy to the Title IX Coordinator or Deputy Title IX Coordinators (collectively "Title IX Office") who have been identified by the University as Responsible Employees.

This Policy encourages and respects the right of free speech guaranteed by the First Amendment of the Constitution and the principles of academic freedom.

### **APPLICABILITY**

This Policy applies to all University administrators, faculty, staff, students, and University affiliates, including guests and applicants for admission or employment.

It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University or potentially affects the University community. This policy does not apply to persons or incidents outside the United States, however other institutional policy(s) regarding sexual misconduct may apply.

It also applies regardless of the gender, gender identity, or sexual orientation of the parties.

### **DEFINITIONS**

1. "Actual Knowledge" means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the

recipient. A notice can be defined as a report of sexual harassment to the Title IX coordinator.

2. "Complainant" means the student, employee or third party who is alleged to be the victim of any prohibited conduct under this Policy, regardless of whether that person makes the report or seeks action under this Policy.
3. "Coercion" means the use of 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. Examples of coercion include but are not limited to threatening to "out" someone based on sexual orientation, gender identity, or gender expression; threatening to harm oneself if the other party does not engage in the sexual activity; and threatening to expose someone's prior sexual activity to another person.
4. "Confidential Employees" means an employee designated by the University as a person with whom students may speak confidentially concerning Title IX or who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law.
  - a. 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. "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 his or her own free will to choose whether or not to have sexual activity.
- b. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. 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.
6. "Formal Complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. A formal complaint can be filed with the Title IX Coordinator in person, by mail, by electronic mail, or by an online form ([link](#)). In instances where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party and must comply with their regulatory duties.
7. "Incapacitation" means the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in a sexual interaction.
8. "Intimidation" means the unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
9. "Parties" refers to the "complainant" and the "respondent" in a Title IX complaint.
10. "Preponderance of the Evidence" means the greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.
11. "Respondent" means the student, employee, or third party who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

12. “Responsible Employee.” 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.
13. “Retaliation” means 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.
14. “Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:
  - a. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct.
  - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.
  - c. Sexual assault, which is defined as:
    - i. Any attempted or actual sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
    - ii. Any attempted or actual sexual act directed against another person, without consent of the victim including instances where the victim is incapable of giving consent.
  - d. Rape, which is defined as:

- i. The penetration, not matter how slight, of the vagina or anus, with anybody part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females, regardless of the age of the victim, if the victim did not consent or if the victim was incapable of giving consent.
- e. Fondling, which is defined as:
  - i. The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- f. Incest, which is defined as:
  - i. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- g. Statutory Rape, which is defined as:
  - i. Sexual intercourse with a person who is under the statutory age of consent.
- h. Dating Violence, which is defined as:
  - i. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

- iii. Dating violence does not include acts covered under the definition of domestic violence.
- i. Domestic Violence, which is defined as:
  - i. Violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
  - ii. To categorize an incident as Domestic violence, the relationship between the perpetrator and the victim must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
- j. Stalking, which is defined as:
  - i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition –
    - a. 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.
    - b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

- c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- 15. “Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.
- 16. “University Affiliate” means any individual associated with TWU in a capacity other than as a Student or Employee who has access to TWU resources through a contractual arrangement or other association. This includes the following individuals:
  - a. Contractors and Vendors: an individual, business, or governmental entity that has a fully executed contract to provide goods or services to TWU. This includes employees of contractors or vendors and independent contractors.
  - b. Employee of a Governmental Agency: an individual employed by a federal or Texas state agency.
  - c. Employee of a TWU-Affiliated Institution: an individual who works for organizations that are tightly aligned with the University.
  - d. Pre-Employment Individual: an individual who will be hired by the University and the hiring department has sponsored their access to TWU resources.
  - e. Other University Affiliate: any individual who does not fit into any other category and needs access to TWU resources.

## **REGULATION AND PROCEDURE**

### **I. Filing a Complaint and Reporting Violations**

- A. Title IX Coordinator and Deputy Coordinators. A complaint involving this policy must be made to the Title IX Coordinator and/or Deputy Coordinators. Information related to the Title IX Coordinator and Deputy Coordinators can be found [here](#).
  - 1. All Members of the University Community and University affiliates are strongly encouraged to immediately report any Title IX incidents to the Title IX Office.

2. Anonymity

You may file an anonymous complaint by telephone, in writing or [electronically](#) with the Title IX Office. Your decision to remain anonymous, however, may greatly limit the University's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating the Policy.

3. Confidentiality

Most University employees are required to report and respond to complaints of Title IX and may be unable to honor a request for confidentiality.

4. Timeliness of Complaint

You should report Title IX as soon as you become aware of such conduct.

5. Reporting to Law Enforcement

You may also make a complaint with Texas Woman's University Department of Public Safety or to the City of Denton Police Department or to other local law enforcement authorities. The Title IX Office can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the Department of Public Safety.

B. Confidential Support and Resources

Students may discuss an incident with Confidential Employees or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the person's identity will be reported to the Title IX Office. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of their choice, or an off-campus rape crisis resource without concern that the person's identity will be reported to the Title IX Office.

C. Immunity

In an effort to encourage reporting of sexual misconduct, the University will grant immunity from student and/or employee disciplinary action to a person who acts in good faith in reporting a complaint, participating in an investigation, or participating in a disciplinary process. This immunity does not extend to the person's own violations of this Policy.



## II. Resources and Assistance

The Title IX Coordinator and/or Deputy Coordinator will provide appropriate information and resources to both complainant & respondent.

## III. Supportive and Interim Measures

- A. Supportive and interim measures are designed to restore or preserve equal access to the recipient's educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive and interim measures may include but are not limited to reassignment, suspension, counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, withdrawal from or retake of a class without penalty, campus escort services, restrictions on contact between the parties, change in work or housing locations, leaves of absences, increased security and monitoring of certain areas of campus or other similar accommodations tailored to the individualized needs of the parties.
- B. The University's ability to implement supportive and interim measures may be affected if the Complainant requests that the University not disclose the Complainant's identity to relevant University personnel involved in implementing interim measures. The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures.
- C. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures; consider the complainant's wishes with respect to supportive measures; inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and explain to the complainant the process for filing a formal complaint.
- D. A student respondent may be removed from an education program or activity on an emergency basis, only after:
  - 1. Undertaking an individualized safety and risk analysis;
  - 2. Determining if an immediate threat to the physical health or safety of any student or other individual arising from the allegation of sexual harassment justifies removal; and
  - 3. Providing the respondent with notice and an opportunity to challenge the decision immediately following the removal while respecting all rights under the Individuals with Disability Education

Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act, as applicable.

- E. A non-student employee respondent may be placed on administrative leave during the pendency of a grievance process under existing procedures, without modifying any rights provided under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

#### IV. Formal Complaint and Investigation

##### A. Key Officials in an Investigation

###### 1. Title IX Coordinator

The Title IX Coordinator is the University administrator who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for overseeing the administrative response to reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators. Any member of the University community may contact the Title IX Coordinator with questions.

###### 2. Investigators

The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy.

##### B. Formal Complaint

- 1. To begin the investigation process, the complainant should submit a written statement setting out the details of the conduct that is the subject of the complaint, including the following:
  - a. Complainant's name and contact information;
  - b. Name of the person directly responsible for the alleged violation;
  - c. Detailed description of the conduct or event that is the basis of the alleged violation;
  - d. Date(s) and location(s) of the alleged occurrence(s);

- e. Names of any witnesses to the alleged occurrence(s); the resolution sought; and
  - f. Any documents or information that is relevant to the complaint.
2. Any complaint/statement must be submitted to the Title IX Coordinator and/or the Deputy Coordinator(s).

### C. Dismissal of Formal Complaints

1. In making determinations regarding requests for confidentiality, requests to not investigate, and/or the disclosure of identifying information to the respondent, the Title IX Coordinator must deliberately weigh the rights, interests, and safety of the complainant, the respondent and the campus community.
2. A formal complaint must be dismissed upon receipt if:
- a. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy, and/or
  - b. If the conduct did not occur in the University's education program or activity, or
  - c. If the conduct did not occur against a person in the United States, or
  - d. If at the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the educational program or activity of the University.
3. The complaint may be reinstated under another provision of the University's code of conduct or other applicable University policies. Formal complaints may be consolidated as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
4. The formal complaint may be dismissed if at any time during the investigation or hearing if:
- a. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any other allegations; and/or

- b. The respondent is no longer enrolled or employed by the University; and/or
  - c. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or other allegations.
- 5. Upon a required or permitted dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) simultaneously to the parties.

#### D. Investigation

##### 1. Due Process and Privacy Rights

- a. The University will strive to ensure that the steps it takes to provide due process to the respondent will not restrict or delay the protections provided by Title IX to the complainant.
- b. The Family Educational Rights and Privacy Act ("FERPA") does not override federally protected due process rights of a respondent.
- c. In the course of the investigation, the University may share information only as necessary with people who need to know in compliance with the law, which may include but is not limited to the investigators, witnesses, and the respondent. The University will take all reasonable steps to ensure there is no retaliation against the parties or any other participants in the investigation.

##### 2. Assistance

During the investigation process, both parties may be assisted by an advisor of their choice, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.

##### 3. Timeliness

Best efforts will be made to complete the complaint process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

- a. At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. In such an instance, the University will promptly resume its fact-gathering as soon as law enforcement has

completed its initial investigation, or if the fact-gathering is not completed in a reasonable time, the University will move forward.

- b. The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.
- c. The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The University has an independent duty to investigate complaints of sexual misconduct.

#### 4. Investigative Process

- a. After an investigator is assigned, the parties will be provided notice of the complaint.
- b. The parties may present any information and evidence that may be relevant to the complaint, including the names of any witnesses who may provide relevant information.
- c. The investigators will interview relevant and available witnesses. Neither the complainant nor the respondent will not attend these interviews or the gathering of evidence.
- d. The investigation of a complaint will be concluded as soon as possible after receipt of the complaint. The parties should be provided updates on the progress of the investigation.
- e. After the investigation is complete, a written report<sup>1</sup> will be issued to the Title IX Coordinator. The report shall include factual findings and a preliminary conclusion regarding each allegation of whether a Title IX policy violation occurred based on a "preponderance of the evidence" standard.
- f. After the written report is completed, both parties will be allowed to inspect the report and will have reasonable and equitable access to all of the evidence relevant to the alleged violation(s) in the University's possession, subject to FERPA and Texas Education Code, Section 51.971. Each party will have 7 business days to submit written comments regarding the investigation to the Title IX Coordinator.
- g. Within 10 business days after the deadline for receipt of comments from the parties, the Title IX Coordinator (or

designee) will request further investigation into the complaint or compile all investigation documentation and proceed with hearing preparations.

#### E. Hearings

1. Absent a Formal Complaint dismissal, the University will provide a live hearing for all Formal Complaints subject to the Grievance Process as outlined in this Policy.
2. Authority of the Hearing Panel – In cases of sexual misconduct, domestic and dating violence, and stalking, the Panel will meet, determine findings and sanctions as described under this policy.
3. Composition of the Hearing Panel – The Panel is comprised of three (3) members: The Hearing Officer and two others which can be two members from the following groups: faculty, staff, or students. Hearing panels respective to students will have one student and the other hearing panel member will be either a faculty or a staff member. Hearing Panels respective to faculty will have one faculty member and the other hearing panel member will be either student or staff. Hearing panels respective to a staff member will have one staff member and the other member a student or faculty member. The Title IX Coordinator will select the Hearing Officer from the group of Hearing Officers from the TWU community. The Hearing Officer will preside over the Panel and, in accordance with this policy, make all decisions regarding procedures, including the introduction and exclusion of information, requests to extend time, and overall management of the proceeding.
4. Challenge to Hearing Panel members – Either party may challenge one or more Panel Members based on a concern that the member cannot make an impartial decision, or free from conflicts and bias. Requests to remove a panel member must be submitted to the Hearing Officer in writing, by noon the day before the hearing. The Hearing Officer will decide whether to grant the request.
5. Scheduling Notice – Within 5 days of the Title IX Coordinator reviewing the report, the Title IX Coordinator will contact respective Hearing Officer to schedule a hearing.
6. The Hearing Officer will contact the Complainant, Respondent and Investigator to schedule a hearing. The Investigator is responsible for contacting witnesses and gathering all evidence for the hearing panel to review. The hearing must be scheduled within 20 days of the finalized report.

7. The Complainant and the Respondent will need to notify the Hearing Officer if they plan on bringing an advisor to the hearing when hearing date is finalized. If one party is bringing an advisor and the other party does not have one, the University will offer a list of advisors to that party. If either advisor is an attorney the Hearing Officer needs to be notified so that the University can arrange to have a representative of the Office of General Counsel present.
8. Procedures for Decisions Before the Hearing Panel
  - a. Submission of Information by Investigator – No fewer than fifteen (15) days prior to the scheduled hearing, the Investigator must submit the Investigative Report to the Hearing Officer as well as any of the following:
    - i. A list of witnesses who will be present at the hearing. Those witnesses had to participate in the investigation;
    - ii. Any other documents the Investigator will be bringing to the hearing.
  - b. Submission of Information by Complainant and Respondent- No fewer than fifteen (15) days prior to the scheduled hearing, the Complainant and Respondent must provide any names of witnesses and all documents the individual wishes to present to the Panel.
  - c. The Hearing Officer will exchange the information between all parties no fewer than ten (10) days prior to the review in writing.

#### F. Live Hearing Process

1. A hearing at a University constitutes an educational administrative process and should not be construed as a civil or criminal judicial proceeding. Each participant (Investigator, Complainant, and Respondent) will have no more than forty-five (45) minutes to present their case to the Panel, which may include a statement explaining the facts, oral or written, and any witness(es) and documents. The participants may ask questions of any individual testifying during the proceeding; however, all questions must be directed through the Hearing Officer. All parties will have the opportunity to summarize their positions.
2. Students

Complainant and Respondent must both participate in the hearing. In cases where the Respondent is a student, if a

Complainant does not participate in the hearing, the hearing may continue under the TWU Student Code of Conduct, but not under Title IX Policy. If the Respondent does not participate, the hearing can continue without the Respondent participation under the TWU Student Code of Conduct, not the Title IX policy. The Investigator must attend the hearing.

3. Faculty or Staff

Complainant and Respondent must both participate in the hearing. In cases where the Respondent is a faculty or staff member if a Complainant does not participate in the hearing, the hearing may continue under other TWU Policies but not under Title IX Policy. If the Respondent does not participate, the hearing can continue without the Respondent participation under other TWU Policies, not the Title IX policy. The Investigator must attend the hearing.

4. The Complainant or Respondent may be assisted by one advisor, including an attorney, of their choosing. At the hearing, the Hearing Officer must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including that challenging credibility. A party who will be accompanied by an attorney should notify the Chairperson at least two (2) days in advance of the review, so that the University can arrange to have a representative of the Office of General Counsel present.

5. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.

6. A party or witness may choose not to submit to cross-examination at the live hearing. A determination regarding responsibility will be made based on the evidence and information provided; however, the Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

7. Rape Shield Protections for Complainants – No party may ask irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the



Respondent committed the alleged misconduct or offered to prove consent.

8. The Hearing Panel will consider all documentation, witness statements and evidence shared at the hearing in the deliberations. There must be a preponderance of the evidence to find the Respondent violated policy. The Investigator must begin the presentation before the Hearing. The Complainant will go second and the Respondent will be the last party to present evidence. Each party will have the ability to summarize their side after all information is shared and questions answered by the parties and the Panel.

9. 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 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.

10. Advisor of Choice

Each party may have an advisor of their choice at the hearing. If a party does not have an advisor, the University will 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.

11. Panel Findings and Conclusions

No more than three (3) days after the Hearing the Hearing Officer will provide the Respondent & Complainant with the full Investigative Report with the following additions:

- a. Must issue a written determination regarding responsibility with findings of fact,
- b. Conclusions about whether the alleged conduct occurred,
- c. Rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and
- d. Whether remedies will be provided to the complainant.

12. The findings and sanctions must be provided to the Complainant and Respondent in writing simultaneously to the parties along with information about how to file an Appeal.

13. Appeal of the Findings/Sanction

Within five (5) days of the Findings decision, either the Respondent or the Complainant may request, in writing, an appeal of the findings and/or sanctions to the appropriate Vice President or designee. The reason(s) for the review must be outlined in the request. The appropriate Vice President or designee may request additional information from any person as needed to make a decision. The appropriate Vice President or designee may uphold, modify or reverse the decision of the Hearing Panel and this decision is final. The decision will be prepared in accordance with the FERPA and delivered to both the Complainant and the Respondent.

G. Remedies

In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

1. Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
2. Ensuring the parties do not share classes, working environments or extracurricular activities;
3. Making modifications to the on campus living arrangements of the parties;
4. Providing comprehensive services to the parties including medical, counseling and academic support services, such as tutoring;
5. Providing the parties extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
6. Determining whether sexual misconduct adversely affected the complainant's University standing;
7. Designating an individual specifically trained in providing trauma-informed comprehensive services;

8. Conducting a University climate check to assess the effectiveness of sexual misconduct prevention measures;
9. Providing targeted training for a group of students, including bystander intervention and sexual misconduct prevention programs;
10. Issuing policy statements regarding the University's intolerance of sexual misconduct.

#### H. Sanctions and Discipline

Disciplinary action will be handled under the appropriate disciplinary policy depending on the status of the respondent

#### I. Documentation

The University shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and University policy.

### V. Dissemination of Policy and Educational Programs

- A. This Policy will be made available to all University administrators, faculty, staff, and students online at this [link](#) and in University publications. Periodic notices will be sent to University administrators, faculty, staff and students about the University's URP 01.225: Prohibition of Sexual Misconduct, including but not limited to at the beginning of each fall and spring semester. The notice will include information about sexual misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.
- B. Ongoing Title IX Training. The University's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about primary prevention, risk reduction, and bystander intervention. Link [here](#).
- C. Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to sexual misconduct.

- D. Annual Reporting and Notice. The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments.

## VI. Additional Conduct Violations

### A. Retaliation

Any person who retaliates against the parties or any other participants in an investigation or disciplinary process relating to a complaint, or any person who under this Policy opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University. If any participant in an investigation believes they have been subject to retaliation, they should immediately report the alleged retaliatory conduct to the Title IX Office.

### B. False Complaints

Any person who knowingly files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding that a respondent is not responsible for the sexual misconduct alleged does not imply a report was false.

### C. Interference with an Investigation

Any person who interferes with an investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:

1. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
  - a. Removing, destroying, or altering documentation relevant to the investigation; or
  - b. Knowingly providing false or misleading information to the investigator or Title IX Office, or encouraging others to do so.

### D. No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint

The filing of a complaint under this Policy may not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant 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.

#### E. Documentation

The University shall confidentially maintain information related to complaints under this Policy, as required by law.

### 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

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106

Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11.

Clery Act, 20 U.S.C §1092(f) and its implementing regulations 34\_C.F.R\_Part 668 FERPA Regulations, 34 C.F.R. Part 99

Texas Education Code, Subchapter E-2: Reporting Incidents of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking §51.251-51.259

Texas Education Code, Subchapter E-3: Sexual Harassment, Sexual Assault, Dating Violence, and Stalking §51.281-51.291

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

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

[URP 01.230: Consensual Relationships](#)

## FORMS AND TOOLS

None

**Publication Date: 07/02/2021**

**Revised: 09/08/2021**