



4.2.1 Nondiscrimination Policy and Complaint Procedure

Chapter 4 - General Personnel	Original Effective Date: November 2000
Section: 4.2 Employee Relations	Date Last Reviewed: July 2023
Responsible Entity: Vice President and Chief Human Resources Officer and the Vice President for Academic, Faculty and Student Affairs	Date Last Revised: July 2023

I. Purpose

To establish UT Health San Antonio's nondiscrimination policy and complaint procedures.

II. Scope

This policy applies to all UT Health San Antonio administrators, faculty, staff, students/residents, fellows, post-docs, visitors and applicants for employment or admission. This policy is the principal prohibition of all forms of Discrimination on campus except as follows:

- A. The controlling policy and procedures relating to sexual Harassment and sexual misconduct can be found in the Institutional Handbook of Operating Policies (IHOP), Section [4.2.2, Title IX Sexual Harassment/Sexual Misconduct Policy](#).
- B. Complaints concerning wages, hours of work, working conditions, performance evaluations, merit raises, job assignments, reprimands, and the interpretation or application of a rule, regulation or policy are governed by the IHOP, Section [4.9.5, Grievance Policy and Procedures](#).

III. Policy

It is the policy of UT Health San Antonio (University) to provide an educational and working environment that provides equal opportunity to all members of the University community. In accordance with federal and state law, the University prohibits unlawful Discrimination on the basis of race, color, religion, sex, national origin, age, disability, citizenship, genetic information, and veteran status, sexual orientation, and gender identity.

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A. Resolution Options

A person who believes that he, she or they have been subjected to Discrimination or Harassment in violation of this policy and seeks to take action may use either the informal resolution process or the formal complaint process, or both. The informal resolution and formal complaint resolution process described in this policy are not mutually exclusive and neither is required as a pre-condition for choosing the other; however, they cannot both be used at the same time.

B. Informal Resolution Process

This process may be used as a prelude to filing a formal complaint as an alternative. It is not necessary that this option be used. Anyone who believes that he, she, or they have been subject to Discrimination may immediately file a formal complaint as described below under "Complaint Procedures". Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature, and disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process.

1. Reporting

- a. Faculty, residents, students, fellows and non-employee post docs wishing to use the informal resolution process should contact the appropriate Associate Dean for Student Affairs or the Associate Dean for Graduate Medical Education (GME) or the Office of the Vice President for Academic, Faculty and Student Affairs (AFSA).
- b. All other individuals wishing to utilize the informal resolution process should contact the Office of Human Resources.

2. Informal Assistance

The individual is provided assistance in attempting to resolve possible Discrimination if the individual does not wish to file a formal complaint. Such assistance includes strategies for the individual to effectively inform the offending party that his, her or their behavior is offensive and should cease. Action should be taken by an appropriate University official to stop the offensive conduct, modify the situation in which the offensive conduct occurred, or begin mediation between the parties. However, the University may take more formal action to ensure an environment free of Discrimination.

3. Timeframe

Informal resolution will be completed within a reasonable amount of time from receipt of a request for informal resolution.

4. Confidentiality and Documentation

The University will endeavor to maintain confidentiality to the extent permitted by law. The University will attempt to find the right balance between the

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individual's desire for privacy and confidentiality with the responsibility of the University to provide an environment free from Discrimination prohibited by law.

- a. For faculty, residents, students, fellows, and non-employee post-docs the appropriate Associate Dean for Student Affairs or the Associate Dean for GME or the Office of the Vice President for AFSA who will retain the official documentation.
- b. For all other informal resolutions, the Office of Human Resources will retain the official documentation.

C. Compliant Procedures

1. Complaints allege unlawful sexual Harassment and sexual misconduct required under Title IX of the Education Amendments of 1972 are directed to follow the processes described in the IHOP, Section [4.2.2 Title IX Sexual Harassment/Sexual Misconduct Policy](#).
2. Complaint procedures pursuant to this policy apply to complaints and grievances alleging unlawful Discrimination on the basis of race, color, religion, sex, national origin, age, disability, citizenship, genetic information, and veteran status, sexual orientation, or gender identity. As used herein, "complaint" is synonymous with "grievance".
3. Reporting
 - a. The University encourages any person who believe that he, she or they have been subjected to Discrimination to:
 - i. Immediately report the incident to his, her or their appropriate supervisor,
 - ii. To the appropriate supervisor of the accused faculty member or employee,
 - iii. To the Office of Human Resources, or
 - iv. When faculty, residents, students, fellows, and non-employee post-docs are the accused individuals,
 - (1) To the appropriate Associate Dean for Student Affairs, or
 - (2) The Associate Dean for GME, or
 - (3) The Office of the Vice President for AFSA.
 - b. The complainant will be advised for the procedures for filing a formal complaint of Discrimination. When a supervisor or Associate Dean of Students or Associate Dean for GME receives a complaint, they will immediately notify the Office of the Vice President for AFSA, and/or the Office of Human Resources, as appropriate.
 - c. Complaints should be filed as soon as possible after the conduct giving rise to the complaint, but no later than thirty (30) working days after the event occurred. In the case of a currently enrolled student, if the last day for filing a

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complaint falls prior to the end of the academic semester in which the alleged violation occurred, then the complaint may be filed within thirty (30) working days after the end of that semester.

- d. In order to initiate the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and, any documents or information that is relevant to the complaint. While an investigation may begin on the basis of an oral complaint, the complainant is strongly encouraged to file a written complaint.

4. Complaint Investigation

The Associate Dean for Student Affairs or Associate Deans for GME and/or the Office of the Vice President for AFSA, as appropriate, is responsible for investigating formal complaints for faculty, residents, students, fellows, and non-employee post-docs.

The Office of Human Resources is responsible for all other non-faculty/non-student complaints.

- a. If the complaint is not in writing, the investigator should prepare a statement of what they understand the complaint to be and seek to obtain verification of the complaint from the complainant.
- b. Within ten (10) working days of receipt of a complaint, the appropriate entity will authorize an investigation of the complaint:
 - i. The Associate Dean for Student Affairs or the Associate Dean for GME or the Office of the Vice President for AFSA for faculty, residents, students, fellows, and non-employee post-doc complaints, and/or
 - ii. The Office of Human Resources for all other non-faculty/non-student complaints.
- c. As part of the investigation process, the accused individual shall be provided with a copy of the allegations and be given the opportunity to respond verbally and/or in writing within a reasonable time frame.
- d. The complainant and the accused individual may present any document or information that is believed to be relevant to the complaint.
- e. Any persons thought to have information relevant to the complaint shall be interviewed and such interviews shall be appropriately documented.
- f. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding sixty (60) days, a justification for the delay shall be presented to and reviewed by the Office for

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the Vice President for AFSA for faculty, students, residents and non-employee post-docs, or the Vice President and Chief Human Resources Officer for all non-faculty/non-student employees. The complainant, accused individual, and supervisor will be provided an update on the progress of the investigation after the review.

- g. Upon completion of the investigation, a written report will be issued. The report shall include: a recommendation of whether a violation of the policy occurred, an analysis of the facts discovered during the investigation, any relevant evidence and recommended disciplinary action if a violation of the policy occurred.
- h. A copy of the report will be sent to the appropriate administrative official.
 - i. Written notification of the findings of the investigation and outcome will be sent to the complainant and the respondent by the appropriate administrative official.
 - ii. The complainant and the respondent have seven (7) working days from the date of the notification letter to submit comments regarding the investigation to the administrative official.
 - iii. However, if a complaint is filed against a student, then the complainant and respondent may not receive or comment on the notification letter in accordance with the Family Education Rights and Privacy Act's restrictions on disclosure of educational records.
- i. Within thirty (30) working days of receiving any comments submitted by the complainant or respondent, the appropriate administrative official will take one of the following actions:
 - i. Request further investigation into the complaint;
 - ii. Dismiss the complaint if the results of the completed investigation are inconclusive or there is insufficient reasonable, credible evidence to support the allegation(s); or,
 - iii. Find that this policy was violated. A decision that this policy was violated shall be made upon the record provided by the investigator and any comments submitted by the complainant or respondent; and, shall be based on the totality of circumstances surrounding the conduct of complained of, including but not limited to; the context of that conduct, its severity, frequency, whether it was physically threatening, humiliating, or was simply offensive in nature. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual.
- j. If the appropriate administrative official determines that this policy was violated, they will take disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions can include, but are not limited to verbal

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reprimands, written reprimands, and the imposition of conditions, reassignment, suspension, and dismissal.

- k. The complainant and the respondent shall be informed in writing of the administrative official's decision.

However, if a complaint is filed against a student, then the determination letter send to the complainant will be written in compliance with the Family Education Rights and Privacy Act.

- l. Implementation of disciplinary actions against faculty and employees will be handled in accordance with the University's policy and procedures for discipline and dismissal of faculty and employees. The Associate Dean for Student Affairs or the Associate Dean for GME will impose disciplinary action, if any, against a student, resident, or fellow in accordance with the University's appropriate disciplinary procedures.

D. Provisions Applicable to All Complaints

1. Assistance

During the complaint process, a complainant or respondent may be assisted by a person of his, her or their choice; however, the assistant may not examine witnesses or otherwise actively participate in a meeting or interview.

2. Retaliation

An administrator, faculty member, student, resident, fellow, post-doc, or employee who retaliates in any way against an individual who has brought a complaint pursuant to this Policy or an individual who has participated in an investigation of such a complaint is subject to disciplinary action, including dismissal.

3. False Complaints

Any person who knowingly and intentionally files a false complaint under this Policy or any person who knowingly and intentionally makes false statements within the course of the investigation is subject to disciplinary action up to and including dismissal from the University.

4. Confidentiality and Documentation

To the extent permitted by law, complaints and information received during an investigation will remain confidential. Relevant information will be provided only to those persons who need to know in order to achieve a timely resolution of the complaint.

- a. For faculty, residents, students, and non-employee post-docs the appropriate Associate Dean for Student Affairs or the Associate Dean for GME or the Office of the Vice President for AFSA will document complaints and their resolution.

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The Associate Dean will forward documentation of resolutions to the Vice President for AFSA at the conclusion of the process for which they are responsible to conduct. The Office of the Vice President for AFSA will retain the official documentation.

- b. For all other non-faculty/non-student informal resolutions, the Office of Human Resources will retain the documentation.

E. Dissemination of Policy

This policy will be made available to all faculty, employees, students, residents, fellows, and post-docs. Periodic notices sent to faculty, employees, students, residents, fellows, and post-docs about the University's nondiscrimination policy will include information about the complaint procedure and will refer individuals to designated offices for additional information.

F. Training

New employees, to include faculty, staff, and police officers, must complete required training within 30 days of their official hire date and every 12-24 months depending on regulatory requirements. For a list of required learning, please visit IHOP [4.10.4 Required Training](#).

IV. Definitions

When used in this document, the following words have the meaning set forth below unless a different meaning is required by context.

Discrimination – including Harassment, is defined as 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 on account of race, color, religion, sex, national origin, age, disability, citizenship, genetic information, veteran status, sexual orientation, or gender identity.

Harassment – as a form of Discrimination, is defined as verbal or physical conduct that is directed at an individual or group because of race, color, religion, sex, national origin, age, disability, citizenship, genetic information, veteran status, sexual orientation, or gender identity when such conduct is sufficiently severe, pervasive, or persistent 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. Constitutionally protected expression cannot be considered Harassment under the policy.

V. Related References

There are no related documents associated with this Policy.

VI. Review and Approval History

- A. The approving authority of this policy is the University Executive Committee.
- B. The review frequency cycle is set for three years following the last review date, a time period that is not mandated by regulatory, accreditation, or other authority.

Effective Date	Action Taken	Approved By	Date Approved
11/2000	Policy Origination		
01/2017	Policy Revision		
06/2021	Policy Update/new template		
07/2021	Policy Revision/discretionary edits		
07/2023	Policy Revision	Executive Committee	08/17/2023