

1. Title

Sexual Harassment and Misconduct

2. Policy

- Sec. 1 Purpose. The purpose of this Policy is to set forth the commitment of the U. T. System to create an environment free from sexual misconduct and sexual harassment and to comply with federal and State laws regarding sexual harassment.
- Sec. 2 Policy Statement. The University of Texas System is committed to the principle that the working environment of its employees should be free from inappropriate conduct of a sexual nature. Sexual misconduct and sexual harassment are unprofessional behaviors and individuals who engage in such conduct will be subject to disciplinary action.
- Sec. 3 Applicability. This Policy applies to all employees, visitors, and applicants for employment of the U. T. System. This Policy applies not only to unwelcome conduct that violates State and federal laws concerning sexual harassment and to any inappropriate conduct of a sexual nature. This Policy is applicable regardless of the gender of the complainant or the alleged harasser.
- Sec. 4 Consensual Relationships.
- 4.1 Romantic or sexual relationships between a supervisor and a person under his or her supervision create situations that may lead to sexual harassment, conflicts of interest, favoritism, and low morale. Therefore, such relationships are discouraged. This policy is not intended to discourage the interaction of supervisors and employees where it is appropriate and ethical.
- 4.2 If a romantic or sexual relationship exists between a supervisor and an employee under his or her supervision, the supervisor must immediately inform his or her supervisor of the relationship. Failure to do so may result in disciplinary action. Additionally, displays of affection in the work environment are strictly prohibited and may result in disciplinary action. A display of affection includes but is not limited to kissing, handholding, and other behavior identified in this policy.
- 4.3 Complaints concerning consensual relationships impacting the work environment by nonparticipating individuals will be treated as third-party sexual harassment complaints.

- Sec. 5 Options for Individuals to Address Possible Violations. The U. T. System provides an informal resolution process and a formal complaint procedure that individuals may use to address possible violations. The informal process described in this policy may be used as a prelude to filing a formal complaint, or as an alternative. It is not necessary that the informal option be used. Anyone who believes that he or she has been subject to sexual harassment or sexual misconduct may immediately file a formal complaint by following procedures outlined in this policy. Counseling services are available to individuals who have concerns about sexual harassment and are available under the informal or formal process.
- Sec. 6 Retaliation Prohibited. An 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.
- Sec. 7 Confidentiality. The U. T. System will endeavor to maintain confidentiality to the extent permitted by law. Where the complainant's desire to maintain anonymity may constrain attempts to establish facts and eliminate the potential harassment, the U. T. System will attempt to find the right balance between the complainant's desire for confidentiality with the responsibility of the U. T. System to provide an environment free of sexual harassment. The U. T. System may take more formal action to ensure an environment free of sexual harassment and sexual misconduct.
- Sec. 8 Informal Resolution Process.
- 8.1 When an individual does not wish to file a formal complaint, the informal resolution process provides assistance to the individual to resolve possible sexual harassment or sexual misconduct. Such assistance includes developing strategies for the individual to effectively inform the offending party that his or her behavior is unwelcome and should cease, action by an appropriate U. T. System official to stop the unwelcome conduct, or mediation. The U. T. System may also take more formal action to ensure an environment free of sexual harassment and sexual misconduct.
- 8.2 To utilize the informal resolution process, an individual should contact the Director of Employee Services or the Equal Employment Opportunity (EEO) Officer in the Office of Employee Services.

Sec. 9 Complaint Procedure.

- 9.1 Grievance Procedure. This complaint procedure also constitutes the grievance procedure for complaints alleging unlawful sex discrimination required under Title IX of the Education Amendments of 1972. As used herein, “complaint” is synonymous with “grievance.”
- 9.2 Reporting of Sexual Harassment or Sexual Misconduct.
 - (a) The U. T. System encourages any person who believes that he or she has been subjected to sexual harassment or sexual misconduct to immediately report the incident to the supervisor of the accused employee, and/or to the Director of Employee Services, and/or to the EEO Officer. In no case will a complainant be required to report such behavior to the person accused of the misconduct. When a supervisor receives a complaint, he/she will immediately notify the Director of Employee Services or the EEO Officer. The Director of Employee Services or the EEO Officer will advise the complainant of the procedures for filing a formal complaint of sexual harassment.
 - (b) Complaints should be filed as soon as possible after the conduct causing the complaint, but no later than 30 calendar days after the event occurred.
- 9.3 Initiation of the Investigation Process. The complainant should submit a written and signed 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 witness(es) to the occurrence(s); the resolution sought; and any documents or information that are relevant to the complaint. While an investigation may begin on the basis of an oral complaint, the complainant should file a written complaint.
- 9.4 Complaint Investigation.
 - (a) The Director of Employee Services or the EEO Officer will investigate all complaints. If the complaint is not made in writing, the investigator will prepare a written

statement of what he or she understands the complaint to be and seek to obtain verification of the statement from the complainant.

- (b) Within five working days of receipt of a complaint, the Director of Employee Services or designee may either dismiss the complaint or authorize an investigation of the complaint. A complaint may be dismissed if the facts alleged in the complaint, even if taken as true, do not constitute sexual harassment or sexual misconduct; the complaint fails to allege any facts that suggests sexual harassment or sexual misconduct occurred; or the appropriate resolution or remedy has already been achieved, or has been offered and rejected.
- (c) If it is determined that a complaint will not be investigated, the Director of Employee Services or the EEO Officer will send the complainant a notification letter explaining the reason the complaint will not be investigated and informing the complainant that he or she may appeal the decision not to proceed with a complaint investigation to the Associate Vice Chancellor for Employee Benefits and Services within 10 working days of the notification.
- (d) The written appeal must explain why the decision to dismiss the complaint was in error. The Associate Vice Chancellor for Employee Benefits and Services will respond within 20 working days of receipt of the appeal. The Associate Vice Chancellor for Employee Benefits and Services' decision is final. If the decision to dismiss the complaint is overturned, the complaint is sent back to the Director of Employee Services for investigation in accordance with the procedures outlined below.
- (e) As part of the investigation process, the accused individual shall be provided with a copy of the complaint and allowed a reasonable time to respond in writing.
- (f) The complainant and the accused individual may present any document or information that is believed to be relevant to the complaint.
- (g) Any persons thought to have information relevant to the complaint shall be interviewed and such interviews shall be appropriately documented. Other acceptable methods

for gathering information include but are not limited to visual inspection of materials alleged to be offensive and follow-up interviews as necessary.

- (h) The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. Investigations exceeding 60 days shall be reviewed by the Associate Vice Chancellor for Employee Benefits and Services. Justification for the prolonged investigation will be documented. The complainant, accused individual, and supervisor will be provided an update on the progress of the investigation after the review.

9.5 Report of Findings of Investigation and Recommendations for Action.

- (a) Upon completion of the investigation, a written report will be issued. The report will include a recommendation of whether a violation of the policy occurred, an analysis of the facts discovered during the investigation, and recommended disciplinary action if a violation of the policy occurred.
- (b) A copy of the report will be sent to the appropriate administrative official, the appropriate Vice Chancellor, the Executive Vice Chancellor or Chancellor, the complainant, and the respondent. The complainant and respondent have seven working days from the date of the report to submit comments regarding the report to the administrative official.
- (c) Within 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.

- (d) A decision that the policy was violated will be made upon the record provided by the investigator and any comments submitted by the complainant or respondent. The decision will be based on the totality of circumstances surrounding the complaint, 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.
 - (e) If the appropriate administrative official determines that this policy was violated, he or she will take disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions include but are not limited to written reprimands, the imposition of conditions, reassignment, suspension, and dismissal.
 - (f) The complainant and the respondent will be informed in writing of the administrative official's decision and will be provided a copy of the final statement of findings.
 - (g) Implementation of disciplinary action will be handled in accordance with the U. T. System's policy and procedures for discipline and dismissal of employees.
- 9.6 Assistance. During the complaint process, a complainant or respondent may be assisted by a person of his or her choice; however, the assistant may not examine witnesses or otherwise actively participate in a meeting or interview.
- 9.7 Confidentiality. To the extent permitted by law, complaints and information received during the investigation will remain confidential. Relevant information will be provided only to those persons necessary to achieve a timely resolution of the complaint.

Sec. 10 Policy Distribution and Training.

- 10.1 This Policy will be made available to all employees. Periodic notices sent to employees will include information about complaint procedures and will refer individuals to designated offices or officials for additional information.

- 10.2 U. T. System Administration will periodically educate and train employees and supervisors regarding the Policy, and conduct that could constitute a violation of the Policy.

3. Definitions

Sexual Harassment - sexual harassment includes unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature when

- submission to such conduct is made, either explicitly or implicitly, as a term or condition of employment or student status;
- submission to or rejection of such conduct is used as a basis for evaluation in making personnel decisions affecting an individual; and/or
- such conduct has the purpose or effect of unreasonably interfering with an individual's performance as an employee or creating an intimidating, hostile, or offensive environment.

Sexual Misconduct - sexual misconduct includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature.

Examples of deliberate behavior that could be considered sexual misconduct or sexual harassment include but are not limited to

- physical contact of a sexual nature including touching, patting, hugging, or brushing against a person's body;
- explicit or implicit propositions or offers to engage in sexual activity;
- comments of a sexual nature including sexually explicit statements, questions, jokes, or anecdotes;
- remarks of a sexual nature about a person's clothing or body;
- remarks about sexual activity;
- speculation about sexual experience;
- exposure to sexually oriented graffiti, pictures, posters, or materials; and/or
- physical interference with or restriction of an individual's movements.

4. Relevant Federal and State Statutes, Policies, and Standards

[Title VII of the Civil Rights Act of 1964, as amended](#)

[The Equal Employment Opportunity Commission](#)

[Texas Labor Code, Chapter 21, Employment Discrimination](#)

[Title IX of the Education Amendments of 1972](#)

5. Relevant System Policies, Procedures, and Forms

[Board of Regents' Rules and Regulations, Rule 30105, Sexual Harassment and Misconduct and Inappropriate Consensual Relationships](#)

[INT101, Discipline/Dismissal of Employees](#)

6. System Administration Office(s) Responsible for Policy

Office of Employee Services

7. Dates Approved or Amended

February 1, 2006

August 25, 2009

October 31, 2012