

 <p>Policies of the University of North Texas Health Science Center at Fort Worth</p>	<p>Chapter 5 Human Resources</p>
<p>5.106 Prohibition Against Discrimination, Sexual Misconduct, Harassment and Related Retaliation</p>	

Policy Statement and Purpose.

The University of North Texas Health Science Center (“HSC”) prohibits sexual misconduct, discrimination, harassment, and retaliation because of race, color, national origin, age, religion, disability, genetic information, sex, sexual orientation, gender identity, gender expression and veteran status or any other characteristic protected under applicable federal or state law in its application and admission processes; educational programs and activities; employment policies, procedures, and processes; caregiving; and HSC facilities.

HSC takes active measures under this policy to prevent such conduct and immediately investigates and takes remedial action when appropriate.

Application of Policy.

This policy applies to all students, faculty, staff, and applicants for employment or admission, individuals and organizations conducting business on behalf of or for HSC, visitors and participants at any location, program or other activity associated with HSC. HSC may act under this policy when prohibited conduct that occurs at any location due to activities that may have a reasonable likelihood of adversely affecting the academic or work environment.

Definitions.

1. **Advisor.** “Advisor” means an individual selected by the complainant(s) or respondent(s) to provide support and guidance throughout the investigation and resolution process. Each party is allowed one advisor of their choice. Advisors may not examine witnesses or otherwise actively participate in the process.
2. **Complainant.** “Complainant” means an individual or a group of individuals who may have been the subject of conduct prohibited under this policy regardless whether the individual reports the conduct.
3. **Confidentiality.** “Confidentiality” means communication that cannot legally be disclosed to another person without the consent of the individual who originally provided the information.
4. **Confidential Employees.** “Confidential Employees” include counselors in Counseling and Psychological Services, a health care provider in Health Services,

or clergypersons. Additionally, employees who receive information regarding an incident of sexual misconduct under circumstances that render the employee's communications confidential or privileged under other law (such as attorneys) are also considered "Confidential Employees." Note: Under state law, Confidential Employees who receive information regarding incidents of sexual misconduct, including but not limited to sexual harassment, sexual assault, dating violence, domestic violence or stalking, committed by or against a student or an employee of HSC, are required to report the type of incident to the Title IX Coordinator (or Deputy Coordinators). Confidential Employees may not include any information that would violate a student's expectation of privacy. The Confidential Employee's duty to report an incident under any other law also applies.

5. **Consent.** "Consent" means words or actions that show an active, knowing and voluntary agreement to engage in sexual activity. Consent cannot be gained by force, coercion, manipulation, threats, or by taking advantage of the incapacitation of another when the individual knows or reasonably should know of such incapacity by use of alcohol or drugs. Consent is absent when the activity in question exceeds the scope of previously given consent, or the person is unconscious, asleep, mentally or physically incapacitated or otherwise unaware that the prohibited conduct is occurring. Consent may be revoked at any time.
6. **Days.** "Days" mean calendar days unless otherwise stated in the policy.
7. **Dating Violence.** "Dating violence" means abuse or violence, or the threat of abuse or 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 will 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.

For the purposes of this definition:

- a. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b. Dating violence does not include acts covered under the definition of domestic violence. [34 CFR 668.46(a)]
8. **Discrimination.** "Discrimination" means treating an individual or group of individuals unfavorably in their employment, admission, or education because of race, color, national origin, age, religion, disability, genetic information, sex, sexual orientation, gender identity, gender expression, veteran status or any other characteristic protected under applicable federal or state law.

9. **Domestic Violence.** “Domestic violence” means a felony or misdemeanor crime of violence committed by:
- a. A current or former spouse or intimate partner of the victim;
 - b. A person with whom the victim shares a child in common;
 - c. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - d. A person similarly situated to a spouse of the victim under the domestic or family violence cases of the jurisdiction in which the crime of violence occurred; or
 - e. 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. [34 CFR 668.46(a).
10. **Employee.** “Employee” means an individual who is employed part-time, full-time, or in a temporary capacity as faculty, staff, or who is required to be a student as a condition of employment.
11. **Faculty.** “Faculty” means a person whose primary responsibilities at HSC is teaching, research or creativity activity, and service, including professional librarians. For purposes of this policy, this definition also includes, Teaching Fellows and Teaching Assistants except where otherwise stated in this policy.
12. **Gender Expression.** “Gender expression” means the manner in which an individual expresses gender through appearance, behavior, or mannerisms; whether the person’s expression is the same as the individual’s gender identity or the sex the individual was assigned at birth.
13. **Gender Identity.** “Gender identify” means the gender with which an individual identifies psychologically, regardless of the sex the individual was assigned at birth.
14. **Good Faith Report.** “Good faith report” means a report submitted based on conduct or behavior that one reasonably believes is prohibited under this policy.

15. **Harassment.** “Harassment” means any harassment, including sexual harassment, that is sufficiently severe, persistent or pervasive to deny or limit the individual’s ability to participate in or benefit from the University’s programs or activities or an employee’s terms and conditions of employment. A hostile environment can be created by anyone involved in a program or activity (e.g., administrators, faculty members, employees, students, and University visitors). In determining whether harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not sufficient, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual’s position would have perceived the conduct as undesirable or offensive. To ultimately determine whether a hostile environment exists for an individual or individuals, consideration is given to a variety of factors related to the severity, persistence, or pervasiveness of the harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual’s education or employment. The more severe the harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the harassment is not particularly severe.

16. **Hostile Environment.** “Hostile Environment” - exists when any discrimination or harassment is sufficiently severe or pervasive to deny or limit the individual’s ability to participate in or benefit from HSC’s programs or activities or an employee’s terms and conditions of employment. A hostile environment can be created by anyone involved in a HSC program or activity (e.g., administrators, faculty members, employees, students, and visitors).

In determining whether discrimination or harassment has created a hostile environment, HSC considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, HSC must also find that a reasonable person in the individual’s position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, HSC considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct

affected an individual's education or employment.

The more severe the discrimination or harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment.

Likewise, a series of incidents may be sufficient even if the discrimination or harassment is not particularly severe.

17. **Investigative Authority.** "Investigative authority" means one or more trained individuals appointed to conduct a formal inquiry to discover and examine the facts of an allegation and conclude if, based on the preponderance of the evidence, the allegation is substantiated, unsubstantiated, or if there is insufficient information to make a determination. This is generally the System Administration Office of Equity, Diversity and Inclusion and the Title IX Office within the Division of Student Affairs.
18. **Predation.** "Predation" means an intent to engage in acts prior to their occurrence demonstrating premeditation, planning or forethought, and is reflected in communicated intent (Physical, verbal, visual or written), threats directed at a party, attempts to incapacitate a party, attempts to isolate a party, utilizing violence, or other actions that a reasonable person would construe as a pre-mediation to engage in actions that are unwanted by/against the recipient.
19. **Preponderance of the Evidence.** "Preponderance of the Evidence" means the amount of information necessary to establish whether an allegation is more likely than not to have occurred (i.e., more likely true than not true). Preponderance of the evidence also is referred to as the greater weight of the evidence.
20. **Private.** "Private" means that which affects, characterizes or belongs to an individual person, as opposed to the general public. With respect to this policy, private means restricting information to those with a reasonably identified need to know.
21. **Quid Pro Quo Sexual Harassment.** "Quid pro quo sexual harassment" means "this for that" such as unwelcome sexual advances, requests for sexual favors or other verbal nonverbal or physical conduct of a sexual nature where the submission to or rejection of may result in an adverse educational or employment action.
22. **Reporting Party.** "Reporting party" means an individual who observed or was made aware of an alleged violation and who provides an initial oral or written account of an alleged violation of this policy.
23. **Respondent.** "Respondent" means an individual or organization identified as possibly having engaged in conduct prohibited under this policy regardless whether a formal complaint is made.

24. **Retaliation.** “Retaliation” means any action, treatment or condition likely to dissuade a reasonable person from reporting or causing to report, or from participating in an investigation of suspected misconduct or a related proceeding, including an action that affects an individual’s enrollment or business relationship, or an employee’s compensation, promotion, transfer, work assignment, or performance evaluation.
25. **Sexual Assault.** “Sexual Assault” means an offense that meets the definition of behavior prohibited under Texas Penal Code, Section 22.011 or of rape, fondling, incest, or statutory rape as used in the Federal Bureau of Investigation’s (FBI) Uniform Crime Reporting program. [34 CFR 668.46(a)]
- a. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - b. Fondling: 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.
 - c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. Statutory rape: Sexual intercourse with a person who is under the statutory age of consent
26. **Sexual Exploitation.** “Sexual exploitation” means a situation in which an individual(s) takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. For example, sexual exploitation could include such actions as secretly videotaping sexual activity, voyeurism, sexually-based stalked, invasion of sexual privacy, exposing one’s genitals or causing another to expose one’s genitals, and knowingly transmitting a sexually transmitted infection to another person.
27. **Sexual Harassment.** “Sexual Harassment” is unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:
- a. Submission to such conduct is made either explicitly or implicitly a term or condition of a person’s student status, employment, or participation in HSC program or activities; or
 - b. Such conduct is sufficiently severe or pervasive that it creates a hostile environment, as defined in this Policy.

Sexual harassment is a form of sex discrimination that includes sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein. Physical conduct, depending on the totality of the circumstances present, including frequency and severity, and including but not limited to unwelcome intentional touching; or deliberate physical interference with or restriction of movement.

Sexual harassment also can exist when there is verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to explicit or implicit propositions to engage in sexual activity; gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies; gratuitous remarks about sexual activities or speculation about sexual experiences; persistent, unwanted sexual or romantic attention; subtle or overt pressure for sexual favors; exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or deliberate, repeated humiliation or intimidation based upon sex.

28. **Sexual Misconduct.** “Sexual Misconduct” is a broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. The term also includes other inappropriate sexual conduct as referenced in this policy. Sexual misconduct can be committed by any person, including strangers or acquaintances.
29. **Sexual Orientation.** “Sexual orientation” means the inclination of one’s intimate, emotional or sexual interests towards a member of the same, opposite, or both sexes.
30. **Stalking.** “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - a. Fear for the person’s safety or the safety of others; or
 - b. Suffer substantial emotional distress.

For the purpose of this definition:

- i. *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 communications to or about a person, or interferes with a person’s property.

- ii. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- iii. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. [34 CFR 668.46(a)]

31. **Student.** “Student” means an individual who has applied for admission or readmission to HSC, who is registered or enrolled in one or more courses for credit at HSC, or who currently is not enrolled but has a continuing academic relationship with HSC.

32. **Title IX Coordinator.** “Title IX Coordinator” means a HSC employee designated by the President to implement, monitor, and enforce the HSC’s Title IX program. In this policy, reference to the Title IX Coordinator also means her or his designee.

Policy and Responsibilities.

1. **Duty to Report.** All employees and students must report allegations reasonably believed to be violations of this policy, including but not limited to discrimination, sexual misconduct, harassment or retaliation. Employees include all administrators, faculty, staff and graduate teaching assistants. Employees must report all known information concerning the incident to the Title IX Office, and must include whether a complainant has expressed a desire for confidentiality in reporting the incident. Reporting is required even if the incident occurred off campus and involves a non- student or non-employee as the alleged perpetrator. However, for purposes of reporting requirements, employees and students who are complainants of sexual misconduct are not required to report that misconduct.
 - a. For employees and students, reports of alleged sexual misconduct, including sexual harassment, sexual assault, sexual violence or stalking are required to be reported promptly to the HSC Title IX Coordinator in the Division of Student Affairs, or by way of the HSC Trust Line, an online reporting system, at www.HSC.ethicspoint.com or (844) 692-6025. Other parties are encouraged to report sexual misconduct using to the Title IX Coordinator or through the HSC Trust Line as well.
 - b. Reports of all other forms of alleged discrimination and harassment shall be promptly reported to the Title IX Coordinator, or by way of the HSC TrustLine, an online reporting system, at www.HSC.ethicspoint.com or (844) 692-6025. Related retaliation shall be reported to the HSC Office of Institutional Compliance and Integrity. Employees who believe they have been subjected to discrimination, harassment or retaliation in violation of this policy and wish to report the conduct also may use either the informal grievance procedure or the

formal grievance procedure as outlined in HSC Policy 05.903, Employee Grievance Policy.

- c. Complaints received through the HSC campus anonymous reporting hotline must be forwarded immediately to the appropriate office with investigative authority.
- d. Complainants will be informed of their right to, but cannot be required to, submit a complaint or report with a law enforcement authority when the sexual misconduct may involve a violation of law.
- e. State law requires that the employment of employees who knowingly fail to report incidents of sexual misconduct or who knowingly file a false report will be terminated. Students who knowingly file a false report of sexual misconduct may be subject to disciplinary action, including suspension or expulsion. However, prohibited sexual misconduct is not required to be reported if the employee or student is the victim of that misconduct, the prohibited sexual misconduct was disclosed during a public awareness event, or if the employee is considered a Confidential Employee under this policy, except that Confidential Employees are still required to report the type of incident
- f. An individual who knowingly makes a false complaint of discrimination or harassment other than sexual misconduct or who knowingly provides false information during an investigation conducted under this policy is subject to possible disciplinary action, including suspension or expulsion, termination of employment, or termination of business relationships with HSC. Investigative authorities will refer allegations of false complaints to the HSC Office of Institutional Compliance and Integrity or Campus Human Resources. Investigation and disciplinary action shall be handled under the applicable disciplinary policies and procedures.
- g. It is a Class B misdemeanor (punishable by a maximum of 180 days in jail and/or a maximum fine of \$2,000) for a person who is required to make a report under Section 51.252 and knowingly fails to make the report, or with the intent to harm or deceive knowingly makes a report under Section 51.252 that is false. The offense is escalated to a Class A misdemeanor (punishable by up to one year in jail and/or a maximum fine of \$4,000) if it is shown on the trial of the offense that the reporter intended to conceal the incident that they were required to report under Section 51.252.
- h. Any person who in good faith makes a report, assists in the investigation of a report, or otherwise participates in the institution's disciplinary process may not be subjected to any disciplinary action by the institution for any violation by the person of the Student Code of Conduct & Discipline or employee conduct policies reasonably related to the incident, except that this immunity does not extend to individuals who perpetrated or assisted in the perpetration of a reported offense.

2. Confidentiality. Information related to a report, investigation, and decision related to behavior prohibited by this policy can be sensitive, and HSC will take appropriate steps to maintain confidentiality as required by this policy and by law.
- a. In all situations, confidentiality is maintained on a need-to-know basis and as required by law, however confidentiality can only be preserved insofar as it does not interfere with HSC's obligation to investigate allegations of prohibited behavior.
 - b. Information that reasonably could lead to the identification of a Complainant, or an individual who reports or participates in an investigation conducted under this policy is confidential and shall not be disclosed except as allowed by law, including when disclosure is necessary to ensure individuals accused of violating this policy are afforded lawful notice and the opportunity to fully respond to the accusation. Information also may be confidential under the Family Educational Rights and Privacy Act.
 - c. All employees, except Confidential Employees, when informed of prohibited behavior should advise the Complainant that they cannot keep the information confidential and are required to report it.
 - d. Confidential Employees must report incidents of sexual harassment, sexual assault, sexual violence or stalking to the Title IX Coordinator without disclosing identity.
 - e. Protection of Non-Confidential Information. As permitted by section 51.971 of the Texas Education Code, information may be protected from disclosure when it is not confidential if the information is collected or produced as part of an investigation conducted under this policy and disclosing the information would interfere with an ongoing investigation.
 - f. Authorized Disclosure of Information. Confidential information and information that is protected from disclosure under this policy may be released:
 - i. with the written and signed consent of the individual whose identity would be disclosed;
 - ii. the person or persons alleged to have perpetrated the incident, to the extent required by other law;
 - iii. potential witnesses as necessary to conduct the investigation;
 - iv. to law enforcement agencies or prosecutors;
 - v. to federal and state agencies as required by law;

- vi. to institutional employees conducting the investigation or hearing or a related disciplinary proceeding;
 - vii. to notify a Complainant and Respondent of the outcome of an investigation, including sanctions imposed for violating this policy;
 - viii. to a health care provider in an emergency situation, as determined necessary by HSC;
 - ix. to allow HSC to take effective protective measures;
 - x. in response to a request of information under the Texas Public Information Act and in accordance with the Act; or
 - xi. as required by lawfully issued subpoena or otherwise authorized by law.
- g. Notification. Except for Confidential Employees, notification under this Policy must include the following if known:
- i. Date(s) of the complaint and alleged incident(s);
 - ii. Nature and description of the alleged conduct, to include but not limited to contact information, location of alleged incident, documentation provided by individual subjected to the alleged discriminatory conduct and witness(es);
 - iii. Name(s), category (employee, student, and/or third party) and title(s), where applicable, of the individual who was subjected to the alleged discriminatory conduct; and
 - iv. Name(s), category (employee, student, and/or third party) and title(s), where applicable, of the individual who is the respondent.
3. Employee and Student Rights While Ensuring Patient Care: In accordance with applicable law, treatment and care will be provided to persons in need without regard to race, color, national origin, age, religion, disability, genetic information, sex, sexual orientation, gender identity, gender expression and veteran status or any other characteristic protected under applicable federal or state law. HSC assures patients' care and treatment will not be negatively affected if a center employee requests not to participate in an aspect of care. The organization will consider the impact of a caregiver's personal cultural values, ethics, and religious beliefs on the care provided. However, in no instance will the mission of the organization be compromised.
4. Retaliation. No employee may retaliate against a person for filing a complaint or participating in an investigation. Retaliation against any person who reports or encourages another to report sexual assault or retaliation, who participates in an investigation conducted under this policy, or who seeks assistance or guidance from

any HSC department or external official or organization authorized to remediate conduct prohibited under this policy is strictly prohibited.

5. Responding to Reports of Sexual Misconduct. HSC shall review all reports of sexual misconduct and retaliation to determine whether an investigation should be conducted regardless whether a written complaint is filed. Before initiating an investigation, the victim of the alleged offense (if the person's identity is known), shall be informed that:
 - a. she or he has the right as a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement;
 - b. it is important to go to the hospital for treatment and preservation of evidence as soon as practicable after the incident;
 - c. she or he has the right to report the incident to the institution and to receive a prompt and equitable resolution to the report;
 - d. HSC has an obligation to remediate reported sexual misconduct and that an investigation may be conducted whether a criminal complaint is filed;
 - e. HSC can take measures to protect against continued misconduct and retaliation;
 - f. voluntary withdrawal of an allegation will not necessarily result in termination of an investigation; and
 - g. she or he should contact the HSC Office of Institutional Compliance and Integrity or Office of Student Affairs/Title IX Coordinator if retaliation is suspected.

6. Investigations and Investigative Authority. Investigations will be conducted in accordance with applicable procedures for employees and students. The investigative authority to conduct investigations of received reports is designated to the following offices:
 - a. Reports involving allegations of sexual misconduct will be investigated by the HSC Title IX Office within the Division of Student Affairs.
 - b. A decision not to investigate a report of sexual misconduct shall be documented in writing and include the reason(s) for not investigating the allegation(s). A copy of this written document shall be provided to the Complainant.
 - c. Student reports involving all other forms of discrimination, harassment and retaliation will be investigated by the HSC Title IX Office within the Division of Student Affairs. Employee reports involving all other discrimination, and

harassment will be investigated by the System Administration Office of Equity, Diversity and Inclusion. Reports of retaliation received through the HSC Trust line will be reviewed and assigned to the appropriate office for investigation by the Office of Institutional Compliance and Integrity.

- d. Employees participating with an investigation, except as a complainant, must fully cooperate with those performing an investigation. Employees failing to cooperate with those performing an investigation may be subjected to disciplinary action, up to and including termination.
- e. Students, any individual conducting business for or on the behalf of HSC, visitors, third parties, and participants at any location, program or other activity associated with the HSC should cooperate with those performing an investigation.
- f. The designated investigative authority is responsible for notification and communication with all parties to an investigation as outlined in this policy.
- g. The evidentiary standard used to determine the merits of the allegation(s) is the preponderance of evidence (i.e., more likely than not).
- h. Designated investigative authorities will maintain proper records and the retention of records in accordance with applicable laws and institutional requirements.
- i. Remedial and Interim Measures. The filing of a complaint under this policy will not stop, delay nor effect pending personnel or disciplinary actions, unless interim measures are imposed. Interim measures are not disciplinary in nature and must be consistent with other HSC policies. At any time during the investigation, if it is determined that interim measures are required to mitigate potential of prohibited activity, including retaliation, during the pendency of the investigation or in order to protect the alleged victim, the investigative authority may recommend and impose approved interim protective measures after consultation with appropriate HSC officials. 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 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. HSC's ability to implement interim measures may be affected if the Complainant requests that HSC not disclose the Complainant's identity to relevant HSC personnel involved in implementing interim measures.

7. Investigations.

- a. After an investigator is assigned, the respondent will be provided notice of the complaint and be allowed a reasonable time to respond in writing.
- 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 normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- 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 will be issued to the Title IX Coordinator and the Campus Director of Human Resources if an employee is part of the complaint. The report shall include factual findings and a preliminary conclusion regarding each allegation as to whether a policy violation occurred (based on a “preponderance of the evidence” standard).
- f. After the written report is deemed legally sufficient, 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 HSC’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 7 business days after the deadline for receipt of comments from the parties, the Title IX Coordinator (or designee) will:
 - i. request further investigation into the complaint;
 - ii. dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or
 - iii. find that the Policy was violated.
- h. If it is determined that the Policy was violated, the matter will be referred for disciplinary action to the appropriate supervisory representative with disciplinary authority.
- i. The parties shall be informed concurrently in writing of the decision.

8 Investigative Findings and Sanctions.

- a. The investigative authority will provide a written determination of findings concurrently to the Complainant and Respondent. Copies of the decision letter will also be provided to Campus Human Resources and the immediate supervisor not party to the complaint for complaints involving employees. In regard to the written determination, the confidentiality of information shall be maintained as required by this Policy and by law.
- b. Any finding of a violation of this policy will be referred to the appropriate supervisory authority and may result in sanctions as provided in applicable disciplinary policies. Sanctions imposed for violating this policy must be reported to the Title IX Coordinator.

Possible sanctions for violations of this policy could include the following:

1. HSC imposed sanctions. Any individual who violates this policy may be subject to disciplinary action, including suspension, expulsion, termination of employment or business relationship(s), as applicable.
2. Federal or State Sanctions. Federal or state agencies may impose fines and other sanctions for violations of federal or state anti-discrimination laws.
3. Civil Action. Individuals may take court action against individuals and System Administration that could result in financial liability.
4. Criminal Sanctions. Conduct prohibited by this policy may constitute a criminal offense under the Texas Penal Code. If an employee is required to report and fails to make a report then the applicable offense is a Class B misdemeanor, with the exception that if it is shown at trial that the actor intended to conceal the incident, then the offense is a Class A.

9. Appeals.

- a. Findings of a violation of this policy may be appealed in writing by either party within five (5) business days from date of notification to the equivalent cabinet member of the position for the employee's area, or designee, or to the Vice Provost of Student Affairs for students. Appeals are allowed only on the following bases:
 - i. a procedural error or omission that significantly impacted the outcome;
 - ii. new evidence (i.e. unknown or unavailable during the investigation) that could have significantly impacted the findings; or

- iii. the appropriateness or severity of the sanction(s).
- b. The cabinet member has ten (10) business days to review the appeal and provide a decision in writing to the appealing party. The decision shall be final.
- c. If the cabinet member is party to the complaint, the appeal will be reviewed another cabinet member designated by the president. The reviewing cabinet member will review the appeal and provide a recommendation to the president in writing within 10 business days of receipt of the appeal. The president will provide a final decision in writing to the appealing party within ten (10) business days of the receipt of the recommendation.

10. Records

- a. Records created under this policy shall be maintained in accordance with the UNT System Record Retention Schedule and the Public Information Act.
- b. In accordance with Texas Education Code Chapter 51, the Title IX Coordinators for students and employees, respectively, are required to submit a written report of incidents received to the institution's chief executive officer at least once every three months. The report must include:
 - i. The investigation of those reports;
 - ii. The disposition, if any, disciplinary processes arising from those reports; and
 - iii. Any reports for which the institution decided not to initiate disciplinary process, if any.
- c. The Title IX Coordinator has an affirmative obligation to immediately report incidents to the HSC president if the Title IX Coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.
- d. The HSC president is required to submit a report to the Board of Regents at least once in either the Fall or Spring semester summarizing the incidents reported. The report must be published on the HSC website. The report must not identify any person, but must include:
 - i. The number of reports received;
 - ii. The number of investigations conducted as a result of those reports;
 - iii. The disposition, if any, of any disciplinary processes arising from those reports
 - iv. The number of those reports for which the institution determined not to initiate a disciplinary process, if any; and
 - v. Any disciplinary actions taken.

11. Administrative Enforcement.

- a. The chief executive officer must annually certify in writing to the Texas Higher Education Coordinating Board (THECB) that the institution is in substantial compliance with the law.
- b. The THECB may assess administrative penalties up to \$2 million against institutions it determines are not in substantial compliance with the law.

12. Education

- a. **Campus-Wide Education for Students.** HSC will educate students about the nature, effect and prevention of forms of discrimination and harassment including sexual harassment, sexual assault, dating violence and stalking. Education programs will include information about prevention strategies on and off campus, victim empowerment, public awareness, the importance of preserving evidence to assist in the successful prosecution of sex crimes, the role a bystander can play in preventing sexual assault, this policy, and resources available to survivors of sexual misconduct. All students are encouraged to participate in these programs. Student organizations are required to participate in a minimum of one program each semester and are encouraged to make information about crime prevention readily available to their members.
- b. **Employee Education and Training.** New employees shall receive training on this policy in accordance with applicable HSC hiring policies and procedures. Employees are individually responsible for completing the training described in this paragraph a minimum of once every two years. Title IX Coordinators should participate in administrative or investigative training no less than every two years.
- c. All UNT Police Officers employed by HSC are required to complete training on “trauma-informed investigations” into allegations of sexual assault, sexual harassment, dating violence, and stalking.
- d. **Enforcement of Training Responsibilities.** An employee who fails to complete education and training as required under this section may be subject to discipline according to applicable HSC policy(is).
- e. **Policy Awareness and Publication.** This policy shall be published in the student catalog, the electronic HSC policy manual, and on a HSC website dedicated solely to the prevention of sexual misconduct.

References and Cross-references.

Family Educational Rights and Privacy Act (FERPA) The
Equal Pay Act of 1963

Title VII of The Civil Rights Act of 1964, as amended The Age
Discrimination in Employment Act of 1967 The Age
Discrimination Act of 1975
Title IX, Education Amendments of 1972 The
Rehabilitation Act of 1973, as amended
Americans with Disabilities Act of 1990, as amended The Genetic
Information Nondiscrimination Act of 2008 Executive Order 11246,
as amended

Tex. Educ. Code §51.282, Policy On Sexual Harassment, Sexual Assault, Dating Violence, and Stalking
Tex. Educ. Code Subchapter E-2, §§51.251-51.259, Reporting Incidents of Sexual Harassment,
Sexual Assault, Dating Violence, and Stalking
Tex. Educ. Code Subchapter E-3, §§51.281-51.291, Reporting Incidents of Sexual Harassment,
Sexual Assault, Dating Violence, and Stalking

Tex. Lab. Code, Ch. 21, Employment Discrimination
HSC Procedures related to Complaint Investigations and Appeals

Forms and Tools.

Anonymous reporting links:

<https://www.unthsc.ethicspoint.com>

<https://www.untsystem.edu/anonymous-reporting>

Reviewed by Office of the General Counsel: May 1, 2020

Approved: May 14, 2020

Effective: May 15, 2020

Revised:

Next review due on or before: December 31, 2021

Policy Owner: Human Resources Director, HSC Campus