



# THE UNIVERSITY OF TEXAS AT AUSTIN

## Revised Handbook of Operating Procedures

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Section B. Nondiscrimination  
Policy Number 4.B.1

Date Issued: November 1, 2001

Approved by VP for Employee and Campus Services

## NONDISCRIMINATION POLICY

### Section I. General Policy Guidelines

#### A. Policy Statement

The University of Texas at Austin is committed to 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, national origin, gender, age, disability, citizenship, and veteran status. Discrimination on the basis of sexual orientation is also prohibited pursuant to University policy.

#### B. Scope

This policy applies to visitors, applicants for admission to or employment with the University, students and employees of the University who allege discrimination by University employees, students, visitors, or contractors.

#### C. Definitions

1. **Discrimination**, including harassment, is defined as conduct directed at an individual because of race, color, religion, national origin, gender, age, disability, citizenship, veteran status or sexual orientation that subjects the individual to treatment that adversely affects the individual's employment or education.

2. **Harassment** is defined as verbal or physical conduct that is directed at an individual because of his or her status, as described above. Such conduct will constitute harassment when it is sufficiently severe, pervasive or persistent to reasonably have the purpose or effect of creating a hostile environment that adversely affects the individual's employment or education. Constitutionally protected expression cannot be considered harassment under this policy.

## **Section II. Complaint Reporting and Processing**

All discrimination complaints except for those alleging sexual harassment, disability, discriminatory conduct by a student, or that involve academic matters will be brought and resolved pursuant to the following procedures:

### **A. Reporting**

1. **Responsibility of Complainant.** A visitor or member of the University community who believes that he or she has been subjected to discriminatory conduct on account of race, color, religion, national origin, gender, age, disability, citizenship, veteran status or sexual orientation is encouraged to report the incident as soon as possible after its occurrence to the Office of Equal Opportunity Services, or any University official, administrator or supervisor.

2. **Responsibility of University Official, Administrator or Supervisor.** Any University official, administrator or supervisor who receives a report of discrimination shall promptly refer it and the complainant to Equal Opportunity Services.

### **B. Complaint Resolution**

The University shall determine whether to resolve a complaint on an informal or formal basis as follows:

**1. Informal Resolution.** The University may informally resolve complaints that do not involve severe misconduct, or a pattern of persistent misconduct. Informal resolution means that no formal investigation occurs and disciplinary action is not required to remedy the situation.

**(a) Informal Resolution Methods.** Equal Opportunity Services will be responsible for the resolution of all informal complaints not addressed by other policies. Informal resolution options include, but are not limited to: helping the complainant communicate directly with the alleged offender; working with the appropriate department/unit to modify the situation in which the offending conduct occurred; arranging and attending a meeting between the alleged offender and the appropriate administrator to discuss the requirements of the University's policy on discrimination; or mediation.

**(b) Time for Resolution.** The University shall respond promptly to informal complaints and shall resolve them within thirty (30) calendar days of their initiation barring unusual circumstances that require more time. The resolution of an informal complaint through Equal Opportunity Services is final.

**(c) Document Retention and Confidentiality.** Equal Opportunity Services shall create and maintain documentation concerning informal complaints and their resolutions. The University, to the extent legally and

ethically possible, will maintain the confidentiality of a complaint and the identity of the complainant; however, actions taken to resolve a complaint may necessarily result in the disclosure of a complainant's identity.

**(d)** The University may institute a formal process at any time during an informal resolution process that it determines it is necessary or appropriate to do so.

**2. Formal Resolution.** The University formally will resolve complaints that allege severe misconduct or a pattern of persistent misconduct on a formal basis. Formal resolution involves the submission of a written complaint, a formal investigation into the facts alleged in the complaint, as described below, and the possibility of the imposition of disciplinary action on the alleged offender.

**(a) Complaint Initiation of Formal Resolution.** A formal resolution process is initiated when the University determines that one is warranted; and the complainant submits a written and signed statement to Equal Opportunity Services that describes in detail the facts upon which the complaint is based.

**(b) Complaint Investigation.** Equal Opportunity Services shall formally investigate complaints made pursuant to this policy. The investigation shall include providing the alleged offender with a copy of the complaint and an opportunity to respond to it in writing within ten (10) working days unless unusual circumstances require more time; interviewing the complainant and the alleged offender and any witnesses who have relevant information concerning the complaint; and the gathering and examining documents relevant to the complaint.

**(c) Final Decision**

1. The investigator will provide a statement of findings, copies of relevant documents and any physical evidence considered to the appropriate vice president within thirty (30) calendar days of the initiation of the investigation unless unusual circumstances require more time.
2. The appropriate vice president and the investigator shall meet within ten (10) working days to discuss the findings, and review the record.
3. Within fifteen (15) working days from that meeting, the vice president shall take one of the following actions: a) request further investigation into the complaint; b) find that the results of the completed investigation are inconclusive and dismiss the complaint; or c) find that this policy was violated. A decision that this policy was violated shall be made only upon the record provided by the investigator; and

shall be based on the totality of circumstances surrounding the conduct 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.

4. If the vice president determines that this policy was violated, he or she, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine a disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions can include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension without pay, and termination.

5. The vice president shall inform the complainant and accused individual, and the appropriate unit head in writing of his or her decision, and shall attach a copy of the final statement of findings. Copies of the vice president's letter, the attached statement of findings, and relevant documents shall also be sent to the Office of the Dean of Students or Equal Opportunity Services as appropriate.

**(d) Document Retention and Confidentiality.** Equal Opportunity Services shall create and/or maintain documents related to the resolution of formal complaints and will maintain their confidentiality to the extent legally and ethically possible.

### **III. Miscellaneous**

#### **A. Grievance of a Disciplinary Action**

1. Any employee disciplined pursuant to this policy, except faculty, teaching assistants, assistant instructors or members of the University of Texas Police Department (each of whom are subject to separate procedures), may grieve that action by submitting a written grievance, within ten (10) working days of the imposition of the disciplinary action, to the president's office. Ordinarily, the president will assign responsibility for review and action on the appeal of the vice president's action to another vice president; however, when required by unusual circumstances, the president may review and handle a grievance pursuant to this policy.
2. If the disciplinary action that is being grieved does not involve termination, demotion, or suspension without pay, the vice president shall thoroughly review and finally decide the matter within thirty (30) calendar days of its receipt unless unusual circumstances require more time.
3. If the disciplinary action that is being grieved involves the termination, demotion

or suspension without pay of an employee who is covered by § 9.49 of the Handbook of Operating Procedures (see policy in old HOP), the vice president who is assigned to review the grievance shall follow the procedures for appealing such actions contained in that section. Complainants will be required to appear and testify at hearings that may be a part of such proceedings.

### **B. Retaliation Prohibited**

A student, faculty, or staff member who retaliates in any way against an individual who has brought a complaint in good faith pursuant to this policy or participated in good faith in an investigation of such a complaint, is subject to disciplinary action, up to and including dismissal from the University.

### **C. Filing of False Complaints**

Any person who knowingly and intentionally files a false complaint under this policy is subject to disciplinary action up to and including dismissal from the University.

### **D. Effect on Pending Personnel Actions**

The filing of a nondiscrimination complaint will not stop or delay any evaluation or disciplinary action related to the complainant who is not performing up to acceptable standards or who has violated University rules or policies.

**For Assistance:** Questions regarding this policy should be directed to Equal Opportunity Services. Information concerning this policy may be obtained by visiting Equal Opportunity Services' web site at: <http://www.utexas.edu/hr/eos/>.

Sources: Titles VI and VII of the Civil Rights Act of 1964, as amended; Age Discrimination in Employment Act of 1967, as amended; Age Discrimination Act of 1975; Americans with Disabilities Act of 1990; Equal Pay Act of 1963; Veterans Readjustment Act of 1974; Executive Order of 11246; Sections 503 and 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; Texas Labor Code, Chapter 21; BOR 2.I.6; Previous policies: HOP 7.01 and 7.16

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