Part 4. Standards of Conduct
Section A. Ethics
Policy Number: 4.A.3
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Approved By: VP for Institutional Relations and Legal Affairs
and VP for Employee and Campus Services

Sex Discrimination and Sexual Harassment

Section I. General Policy Guidelines

A. Policy Statement

It is the policy of The University of Texas at Austin to provide an educational and working environment for its students, faculty and staff that is free from sex discrimination and sexual harassment. In accordance with federal and state law, the University prohibits discrimination on the basis of sex, including sexual harassment. Sex discrimination and sexual harassment will not be tolerated, and individuals who engage in such conduct will be subject to disciplinary action. The University encourages students, faculty, staff and visitors to promptly report sex discrimination and sexual harassment.

B. Scope

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

C. Definitions

1. Sex Discrimination, including sexual 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 sex.

2. Sexual Harassment is a form of sex discrimination that can occur when:

a. the submission to unwelcome physical conduct of a sexual nature, or to unwelcome requests for sexual favors or other verbal conduct of a sexual

nature, is made an implicit or explicit term or condition of employment or education; or

b. the submission or rejection to unwelcome physical conduct of a sexual nature, or to unwelcome requests for sexual favors or other verbal conduct of a sexual nature, is used as a basis for academic or employment decisions or evaluations; or
c. unwelcome physical acts of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, have the effect of creating an objectively hostile environment that interferes with employment or education on account of sex.

Physical conduct that, depending on the totality of circumstances present, including frequency and severity, may constitute sexual harassment includes, but are not limited to:

- Unwelcome intentional touching; or
- Deliberate physical interference with or restriction of movement.

Verbal conduct is defined as oral, written, or symbolic expressions that:

- Personally describe or are personally directed at a specific individual or group of identifiable individuals; and
- Are not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

Verbal conduct that, depending on the totality of circumstances present, may constitute sexual harassment includes, but is 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;
- Deliberate, repeated humiliation or intimidation based upon sex.

The examples on this list are rarely, if ever, necessary to an argument

for or against the substance of any political, religious, philosophical, ideological, or academic idea.

Constitutionally protected expression cannot be considered harassment under this policy.

Section II. General Procedures

A. Reporting

A person who believes that he or she has been subjected to sex discrimination or sexual harassment should report the incident to any University official, administrator or supervisor. Students are encouraged to report such incidents to the Office of the Dean of Students; employees and campus visitors are encouraged to report to Equal Opportunity Services. Incidents should be reported as soon as possible after the time of their occurrence.

No person is required to report sex discrimination or sexual harassment to the alleged offender.

B. Referral Responsibility

Every supervisor, administrator and University official is responsible for promptly reporting incidents of sex discrimination and sexual harassment that come to their attention to either the Office of the Dean of Students, or to Equal Opportunity Services.

C. Resolution Options

A person who believes that he or she has been subjected to sex discrimination or sexual harassment 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.

Section III. Informal Resolution Procedure

A. Informal Resolution

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.

A request for informal resolution must be made within 90 days of the date of the alleged incident to either the Office of the Dean of Students or the Office of the Director of Equal Opportunity Services, who shall determine whether the nature of the problem is such that it can be resolved by agreement on an informal basis, and

if so, which office will do so. A request for informal resolution will not extend the 90 day time limit for filing a formal complaint.

Methods for informal resolution may include, but are not limited to: coaching the person on how to directly address a situation which is causing a problem; mediating the dispute with the parties; aiding in the modification of a situation in which the offensive conduct occurred; assisting a department or division with the resolution of a real or perceived problem; or arranging a documented meeting with the alleged offender that involves a discussion of the requirements of the Sex Discrimination and Sexual Harassment Policy.

The University shall document any informal resolution. Such documentation shall be retained by the Dean of Students Office or Equal Opportunity Services as appropriate and will be kept confidential to the extent permitted by law. An informal resolution meeting shall not be considered a precondition for the filing of a written complaint.

Section IV. Complaint Resolution Procedure

A. Definitions

1. **Complaint** means a signed document alleging sex discrimination, including sexual harassment under this policy.

2. **Complainant** means a person who submits a written complaint alleging sex discrimination, including sexual harassment under this policy.

3. **Respondent** means the person designated to respond to a complaint. Generally the respondent would be the person alleged to be responsible for the prohibited discrimination or sexual harassment alleged in a complaint. The term “Respondent” may be used to designate persons with direct responsibility for a particular action or those persons with administrative responsibility for procedures and policies in those areas covered in a complaint.

4. **Notification** takes place two days after the date of posting of any document in the United States mail, properly addressed, or upon the date of receipt of any document, when placed in the campus mail, properly addressed. Written communications to a complainant are properly addressed when sent to the address given in the complaint or the last address given since the filing of the complaint.

B. Complaint Procedure

1. **Complaint**

A complaint alleging sex discrimination or sexual harassment must be submitted in writing to Equal Opportunity Services or the Office of the Dean of Students. The complaint must contain the following information:

- Name and UT Identification Number of the Complainant(s);
- Contact Information, including address, telephone, e-mail;
- Name of person(s) directly responsible for alleged violation(s);
- Date(s) and place(s) of alleged violations;
- Nature of alleged violation(s) as defined in this policy;
- Detailed description of the specific conduct that is the basis of alleged violation(s);
- Copies of documents pertaining to the alleged violation(s);
- Names of any witnesses to alleged violation(s);
- Action requested to resolve the situation;
- Complainant's signature and date of filing; and
- Any other relevant information.

The following communications do not constitute a complaint and will not be investigated or resolved pursuant to the complaint resolution process:

- Oral allegations
- E-mail correspondence
- Anonymous communications
- Courtesy copies of correspondence or a complaint filed with others
- Inquiries that seek advice or information only
- Pre-complaint consultations and information resolution activities

2. Time Limit

A written complaint must be filed within ninety (90) calendar days of the occurrence of the alleged violation. In the case of a currently enrolled student, if the last day for filing a 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) calendar days after the end of that semester.

3. Acknowledgement

Within five (5) working days after receipt of a written complaint, Equal Opportunity Services or the Office of the Dean of Students, as appropriate, will send the complainant a brief acknowledgement of the complaint, stating that the complaint will be evaluated, and advising the complainant(s) that he or she will be contacted within a given time. The acknowledgment letter will include a copy of these complaint procedures.

4. Complaint Evaluation

A formal investigation will be initiated if a complaint is complete, timely, within the scope of this policy and articulates sufficient specific facts, which, if determined to be true, would support a finding that this policy was violated. The University may not proceed with a complaint investigation under a variety of circumstances, for instance:

- a person fails to provide a written, signed complaint;
- a complaint fails to describe in sufficient detail the conduct that is the basis of the complaint;
- the conduct described in the complaint is not covered by this policy;
- the complaint is not timely;
- the complainant declines to cooperate in the University's investigation;
- the complaint has been withdrawn; or
- an appropriate resolution or remedy has already been achieved, or has been offered and rejected.

If it is determined that the University will not proceed with a complaint investigation, Equal Opportunity Services or the Office of the Dean of Students, as appropriate, will send a notification letter explaining the reason(s) to the complainant, with a copy to the alleged offender. The notification letter will also include a statement informing the complainant that, within ten (10) working days of the notification, he or she may appeal the determination not to proceed with a complaint investigation to the Vice President for Employee and Campus Services or the Vice President for Student Affairs, as appropriate. The request for appeal must be a signed, written document articulating why the decision to dismiss the complaint was in error. The appropriate vice president will respond within twenty (20) working days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision is overturned, the complaint is sent back to Equal Opportunity Services or the Office of the Dean of Students, as appropriate, for investigation in accordance with the procedures outlined below.

5. Notification of Respondent

If it is determined that the University will proceed with a complaint investigation, Equal Opportunity Services or the Office of the Dean of Students will give the respondent written notification of the complaint investigation. The notification letter will include a copy of the written complaint. The notification letter will provide the respondent an opportunity to submit a written response to the allegations within ten (10) working days, unless unusual circumstances warrant additional time. The notification letter will include a statement advising the respondent that retaliation against the complainant is prohibited and will subject the respondent to appropriate disciplinary action.

6. Investigation Responsibility

The Office of the Dean of Students is responsible for conducting formal investigations of complaints against students alleging sexual discrimination and sexual harassment. Equal Opportunity Services is responsible for conducting formal investigations of complaints against non-students alleging sexual discrimination and sexual harassment. If a complaint is directed against an individual who would otherwise play a role in investigating and attempting to resolve the complaint, the function assigned to that person by these procedures will be delegated to another person.

7. Investigative Process and Findings

The investigator will interview both the complainant and the respondent(s) and persons who are considered to have pertinent factual information related to the complaint. The investigator shall also gather and examine documents relevant to the complaint. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and onot on the particular sensitivity or reaction of an individual. Findings will 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.

8. Representation

During the complaint process, the complainant(s) and the respondent(s) may designate and thereafter be accompanied by an advisor of his or her choosing at meetings and interviews at which he or she is present; however, no representative may examine witnesses or otherwise actively participate in a meeting or interview.

9. Submission of Evidence

During the complaint investigation process, the complainant(s) and the respondent(s) will provide Equal Opportunity Services or the Office of the Dean of Students, as appropriate, with all documents relied upon regarding the issues raised in the complaint.

10. Report of Findings and Recommendation – Complaints Against Non-Students

a. The investigator will provide a proposed statement of findings, copies of relevant documents and any physical evidence considered to the appropriate vice president within thirty (30) working days of receipt of the respondent's statement, unless unusual circumstances require more time. The appropriate vice president to act on complaints against faculty and staff will be the vice president over the area where the respondent is employed. The appropriate vice president to act on complaints against contractors and visitors will be the Vice President for Employee and Campus Services. If a complaint is directed against a vice president who would otherwise act on a complaint, the function assigned to that vice president will be delegated to another person.

b. The appropriate vice president will promptly notify the complainant and the respondent that the investigation has been completed and attach a copy of the proposed statement of findings. Student identifiable information, if any, which is confidential by law, will be redacted. Within ten (10) working days from the date of notification, the complainant and respondent may each submit, for consideration by the appropriate vice president, such comments and corrections as they may have.

c. Within fifteen (15) days of the notification to the complainant and the

respondent that the investigation has been completed, the appropriate vice president and the investigator shall meet to discuss the findings and review the record, along with any comments and proposed corrections submitted by the complainant and respondent.

d.

Within fifteen (15) working days from that meeting, the vice president shall take one of the following actions: 1) request further investigation into the complaint; 2) 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, 3) find that this policy was violated.

e.

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.

f.

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.

11. Report of Findings and Recommendation – Complaints Against Students

a.

The investigator will provide a proposed statement of findings, copies of relevant documents and any physical evidence considered to the Dean of Students within thirty (30) working days of receipt of the respondent's statement, unless unusual circumstances require more time.

b.

Dean of Students and the investigator shall meet within fifteen (15) working days to discuss the findings, and review the record.

c.

Within fifteen (15) working days from that meeting, the Dean of Students shall take one of the following actions: 1) request further investigation into the complaint; 2) 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 3) find that this policy was violated.

d.

If the Dean of Students determines that this policy was violated, the dean, following consultation with the investigator or other knowledgeable person(s) as appropriate, shall determine whether to initiate a disciplinary action appropriate for the severity of the conduct pursuant to the Institutional Rules on Student Services and Activities (Chapter 11,

Appendix C of the General Information Catalogue). Disciplinary actions can include, but are not limited to, documented warning, the imposition of conditions, probation, suspension, and dismissal.

e. As required by federal law, any disclosure of the findings and decision of the Office of the Dean of Students will be governed by the provisions of the Family Educational Rights and Privacy Act.

SECTION V. Miscellaneous

A. Employee 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 at Austin 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 (30) calendar days of its receipt unless unusual circumstances require more time.
3. If the disciplinary action that is being grieved does not involve termination, demotion, or suspension without pay of an employee who is covered by § 9.49 of the Handbook of Operating Procedures, 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 pursuant to this policy or participated 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 sex discrimination, sexual harassment, or retaliation 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.

E. Relationship of Complaint Process to Outside Agency Time Limits

The filing of a sex discrimination or sexual harassment complaint under this policy does not excuse the complainant from meeting the time limits of outside agencies.

F. Title IX Grievance Procedure

This complaint procedure shall also constitute 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."

G. Time Frames

Time frames mentioned in these procedures may be extended for good cause, such as holidays or when classes are not in session, or when it is necessary to complete an investigation due to difficulties reaching witnesses or parties to the complaint.

H. Documentation and Confidentiality

The University shall maintain documents related to complaints under this policy as required by law. The Office of the Dean of Students shall be primarily responsible for records related to complaints against students. The Office of Equal Opportunity Services shall be primarily responsible for records related to complaints against non-students. The confidentiality of a complaint under this policy and all documents, correspondence, interviews and discussions relating to the investigation of the information contained in a complaint will be maintained on a need to know basis to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise relating to the investigation of a complaint under this policy is subject to disciplinary action.

I. Consensual Relationships

Participation of a supervisor, teacher, advisor, or coach in a consensual romantic or sexual relationship with a subordinate employee or student in all cases creates a prohibited conflict of interest that must be addressed under the policy on consensual relationships (see Handbook of Operating Procedures, Policy Number 4.A.2.).

J. Sexual Misconduct

Employee conduct of a sexual nature that, although not so serious or pervasive that

it rises to the level of sexual harassment, is unprofessional and/or inappropriate for worksites and teaching locations, may constitute prohibited sexual misconduct under the policy on sexual misconduct.

For Assistance: Questions regarding this policy should be directed to the Office of the Dean of Students or Equal Opportunity Services.

Source: Title VII, Civil Rights Act of 1964, as amended; Title IX, Educational Amendments of 1972; BOR 1.III.4.8; Previous policies: HOP 7.25 and PM 4.110

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