

Texas Health School Title IX Policy and Procedures

Purpose

Texas Health School is committed to promoting a fair and safe work and learning environment, for its students, staff, and faculty, that is free from sexual discrimination, harassment, misconduct, or violence. In addition, the School prohibits discrimination and discriminatory harassment in all of its educational and employment programs and activities on the basis of any individual's sex, including admission and employment.

The policy outlines Federal laws, Title IX (prohibiting sexual discrimination) and Clery Act (mandatory reporting of crimes on campus). The scope of the policy is broadened to include dating violence, domestic violence, and stalking. Texas Health School will act promptly to address complaints of sexual discrimination and harassment and impose corrective/disciplinary action as deemed necessary. Any retaliation against an individual who has filed a complaint or retaliation against individuals for cooperating with an investigation of a complaint will not be tolerated.

Additionally, this Policy complies with the regulations provided for in the Violence Against Women Reauthorization Act of 2013 ("VAWA") and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").

Scope

This Policy applies to all Texas Health School employees and students. This Policy is only initiated if at the time of filing a formal complaint, the Complainant was participating in or attempting to participate in the education program or activity of the School, and the alleged conduct occurred within Texas Health School's education program or activity, which includes locations, events, or circumstances over which the school exercises substantial control over both the accused perpetrator of sexual harassment and the context in which the sexual harassment occurred.

Title IX Coordinator

The School's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination, and misconduct policy. The Title IX Coordinator reports directly to the Campus Director and her office is located in the school's administrative suite. Any questions about this Policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the Title IX Coordinator in person or online, using the prescribed incident form.

Title IX Coordinator's Contact Information:

Ms. Michel Burke,
11511 Katy Freeway, Suite # 200.
Houston, TX 77079
Tel: 713-932-9333 Ext
Email: mburke@ths.edu

Definitions:

Sexual Harassment is defined as conduct on the basis of sex that satisfies one or more of the following:

- a. An employee conditioning the provision of an aid, benefit, or service on the individual's participation in unwelcome conduct.
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to their education
- c. Sexual assault, dating violence, domestic violence, or stalking

Sexual Assault – Rape (FBI definition) is the penetration, no matter how slight, of the vagina, anus, with any body part or object, or oral penetration by a sex organ of another person without the consent of the victim (or attempts to commit the same). This includes any gender of victim or Respondent.

Sexual Assault – Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances in which the victim is incapable of giving consent because of their age or temporary incapacitation (or attempts to commit the same).

Statutory Rape is sexual intercourse with a person who is under the statutory age of consent, which is 16 in Texas. Attempts to commit statutory rape are also prohibited.

Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law

Unwanted Sexual Attention, which includes verbal or physical sexual advances. This may also include unwanted sexual behaviors such as pressuring a person for dates, unwanted touching including hugging and kissing; dissemination of "revenge porn;" conspiring to sexually harass people; unwelcome conduct that harms and humiliates a person on the basis of sex; recording, photographing, or transmitting identifiable images of private sexual activity and/or the intimate parts of another person; allowing third parties to observe private

sexual acts; distributing, viewing or forcing others to view illegal pornography; forcing others to view legal pornography; engaging in voyeurism; and exposing one's genitals or inducing one to expose their own genitals in nonconsensual circumstances.

Dating Violence includes any act of violence or threatened violence against a person who is, or has been in, a social relationship of a romantic or intimate nature with that person. This includes but is not limited to sexual or physical abuse, or the threat of such abuse.

Domestic Violence includes any felony or misdemeanor crime of violence committed by one person on another where the individuals:

- a. are or were married to one another
- b. are or were residing together in the same household
- c. are or were related by blood or marriage
- d. have a child in common regardless of whether they have ever married or lived together; or are or have been in a substantive dating or engagement relationship

Stalking means any course of conduct (more than one act) directed at a specific person (directly, indirectly, through a third party, or other means) that places that person in reasonable fear for his or her safety or the safety of others. For the purposes of this Policy, the behaviors must be directly related to that person's sex.

Complainant means the individual who is alleged to be the victim of sexual harassment

Formal Complaint means a document filed and signed by a Complainant or the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment.

Party means a Complainant or a Respondent.

Mandated Reporter The "mandated reporters" (formally referred to as Responsible Employees) must report all relevant details of the incident including the name of the Complainant and Respondent, if known, dates, times, locations, and the names of Witnesses. Reporting must take place regardless of the location of the incident (on- or off-campus) as it assists the Title IX Coordinator in tracking patterns, evaluating the scope of the problem, formulating appropriate campus-wide responses, and ensuring that impacted students are provided with information about reporting options and resources. All employees including faculty and staff are considered mandated reporters.

Confidential Employees The School has designated employees on campus to whom individuals may make confidential reports. Confidential Employees cannot reveal information to any third party unless one or more of the following conditions are present: the individual has provided written consent to disclose information; there is a concern about

imminent harm to self or others; the information concerns the neglect or abuse of someone who is a minor, elderly, or disabled; or an employee has been charged with providing nonidentifiable aggregate information for purposes of the Clery Act.

Consent for purposes of this Policy is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in a mutually agreed upon sexual activity at a mutually agreed upon time. Consent must be informed, freely and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent, e.g., a position of influence could include supervisory or disciplinary authority. Silence, previous sexual relationships, or experiences, and/or a current relationship may not, by themselves, be taken to imply consent. While nonverbal consent is possible (through active participation), it is best to obtain verbal consent. Similarly, consent to one form of sexual activity does not imply consent to other forms of sexual activity. An individual who is incapacitated cannot give consent. Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly.

Consent cannot be given if any of the following factors are present: Force, Coercion, Incapacitation.

- a. **Force** is the use of physical strength or action (no matter how slight), violence, threats of violence or intimidation (implied threats of violence) as a means to engage in sexual activity. A person who is the object of actual or threatened force is not required to physically, verbally, or otherwise resist the aggressor. However, evidence of resistance by the Complainant will be viewed as a clear demonstration of a lack of consent.
- b. **Coercion** is the use of an unreasonable amount of pressure to engage in sexual activity. Coercion does not begin when the initiator makes an initial sexual advance. Coercion begins when the initiator continues to pressure another, through the use of psychological/emotional pressure, alcohol, drugs, threat, intimidation, or force, to engage in sexual behavior, when a reasonable person would realize that the other does not want to engage in sexual activity
- c. **Incapacitation** is the physical and/or mental inability, whether temporary or permanent, of an individual to make rational, reasonable decisions, or judgments regarding one's well-being or welfare. States of incapacitation include but are not limited to, unconsciousness, sleep, and blackouts. Incapacitation may result from the voluntary or involuntary consumption of alcohol and/or other drugs. Where alcohol or other substances are involved, incapacitation is determined by how the

substance impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. For purposes of this Policy a person is not incapacitated merely because the person has been drinking or using drugs. The question of incapacitation is determined on a case-by-case basis using both objective and subjective standards. In evaluating whether a person was incapacitated for purposes of evaluating effective consent, the school will consider: (1) whether the person initiating the sexual activity knew that their partner was incapacitated; and if not (2) whether a reasonable person in the same situation would have known that their partner was incapacitated; and (3) whether the person initiating the sexual activity played a role in creating the circumstances of incapacity.

Examples of Title IX Violations: Common examples of Title IX violations include but are not limited to:

- i. asking personal questions about sex life, fantasies, preferences, or history; telling lies or spreading rumors about a person's sex life
- ii. stalking or repeatedly asking out a person who is not interested
- iii. sexually suggestive remarks, jokes, stories, gestures, or catcalls
- iv. sexual or obscene messages or pictures sent via text or computer
- v. sexual advances, propositions, insults, or threats
- vi. unwelcome or inappropriate touching
- vii. sexual violence or assault
- viii. and rape (including date rape).

Reporting Options:

The School strongly encourages all who have experienced sexual harassment to report the incident so that the school can provide support and pursue an appropriate resolution. The School prohibits and will not tolerate retaliation against anyone who makes a report. The reporting options available to complainant are:

- a. **Reporting to the School:** Complainants are encouraged to report the incident to the School by contacting the Title IX Coordinator. The Title IX Coordinator may be contacted by telephone, mail, email or in person during regular business hours (9:00am to 6:00pm).

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- b. **Reporting to Law Enforcement:** Conduct that violates this Policy may also violate state and local laws. The School encourages all individuals to immediately contact law enforcement in situations which may present imminent or ongoing danger by contacting:

- i. 9-1-1- for Emergencies
- ii. Houston Police Department (Westside District 19 & 20) 713.884.5600
- iii. Houston Police Sex Crimes Unit 713.308.1180

While the School encourages Complainants to contact law enforcement, it is not required. Additionally, the Complainant is still entitled to supportive measures regardless of whether a report is filed. School officials will aid in contacting law enforcement as needed.

- c. **Safety and Preserving Evidence:** If an incident occurs, the School encourages victims to report the incident and seek both police and medical assistance. Seeking police or medical assistance does not obligate a Complainant to make a complaint or take any further action, but the decision to seek medical help and gather evidence allows Complainants to preserve the full range of available options. The School will assist any community member to get to a safe place, and, if requested, contact law enforcement. For 24/7 help, contact National Sexual Assault helpline # 1-800-656-4673. Any person who has experienced sexual harassment is encouraged to take steps to preserve evidence of the incident, as doing so may be necessary to the proof of a crime or to obtain a protection order from the court. After an incident of sexual assault occurs, one should try to refrain from bathing, showering, brushing teeth, drinking, eating, or changing clothes until the evidence can be collected. If one changes clothes, one should place each garment in a separate paper (not plastic) bag. If the incident involves any written or electronic communications (e.g., pictures/videos, texts, social media posts, etc.), take care to preserve copies and not delete the originals. Complainants may choose to file a report with both law enforcement and the School when the incident constitutes both a crime and a violation of School's policy. In cases in which the Complainant chooses to report to law enforcement, the Title IX Coordinator may contact any law enforcement agency that is conducting its own investigation to inform that agency that a School investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the School in its investigation. At the request of law enforcement, the

investigator may delay the School investigation temporarily while an external law enforcement agency is gathering evidence.

d. Confidential Reporting Options:

- i. Students may call the following offices and ask to speak to a confidential counselor.
 - National Domestic Violence Hotline: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY)
 - National Sexual Assault Hotline: 1-800-656-4673 (Calls are connected to a local rape crisis center)
 - National Teen Dating Abuse Helpline: 1-866-331-9474 or 1-866-331-8453 (TTY)
- ii. Employees: Confidential assistance is always available through the National Sexual Assault helpline # 1-800-656-4673
- e. **Delayed Reporting:** Complainants have the right not to file a report, yet they are highly encouraged to seek medical attention and counseling. Complainants who wish to file a report at a later date may do so by utilizing any of the options above. However, please note that a delay in reporting could create obstacles to the School's process for stopping harassment/discrimination, remedying its effects, and preventing recurrence as well as potentially weakening evidence that could be useful in determining whether sexual misconduct occurred.

INSTITUTIONAL PROCEDURES AND STANDARDS OF EVIDENCE FOR DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING OFFENSES

When a report of domestic violence, dating violence, sexual assault or stalking is reported to the School, the following procedures and standards of evidence will be used during any judicial hearing on campus arising from such a report Sexual Assault

Depending on when reported (immediate vs. delayed report), institution will provide complainant with

1. Information about accessing medical care,
2. Institution will assess immediate safety needs of complainant,
3. Institution will assist complainant with contacting local police if complainant requests,
4. Institution will provide complainant with referrals to on and off campus mental health providers,
5. Institution will assess need to implement interim or long-term protective measures, such as changes in class schedule, "No Contact" directive between both parties,
6. Institution will provide a "No trespass" directive to accused party if deemed appropriate,

7. Institution will provide a copy of the Sexual Misconduct Policy to complainant and inform the complainant regarding timeframes for inquiry, investigation, and resolution,
8. Institution will inform the complainant of the outcome of the investigation, whether or not the accused will be administratively charged and what the outcome of the hearing is,
9. Institution will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for assisting in the investigation. Sexual assault cases are referred to the Houston Police Department.

Stalking

1. Institution will assess immediate safety needs of complainant.
2. Institution will assist complainant with contacting local police if complainant requests.
3. Institution will provide written information to complainant on how to preserve evidence.
4. The institution will assess the need to implement interim or long-term protective measures to protect the complainant, if appropriate.
5. Institution will provide a “No trespass” directive to accused party if deemed appropriate Stalking cases are referred to the Houston Police Department.

Dating Violence

1. Institution will assess immediate safety needs of complainant.
2. Institution will assist complainant with contacting local police if complainant requests.
3. Institution will provide written information to complainant on how to preserve evidence.
4. The institution will assess the need to implement interim or long-term protective measures to protect the complainant, if appropriate.
5. Institution will provide a “No trespass” directive to accused party if deemed appropriate Dating Violence cases are referred to the Houston Police Department.

Domestic Violence

1. Institution will assess immediate safety needs of complainant.
2. Institution will assist complainant with contacting local police if complainant requests.
3. Institution will provide written information to complainant on how to preserve evidence.
4. The institution will assess the need to implement interim or long-term protective measures to protect the complainant, if appropriate.
5. Institution will provide a “No trespass” directive to accused party if deemed appropriate Domestic Violence cases are referred to the Houston Police Department.

Sexual Assault

Go to a safe place as soon as you can. Notify the School Director or School Coordinator. Get medical attention as soon as possible to make sure you are physically well and to collect

important evidence. In the event you may later wish to take legal action:

- Try to preserve all physical evidence. Do not wash, use the toilet, or change clothing if you can avoid it. If you do change clothes, put all the clothing you were wearing at the time of the attack in a paper, not plastic, bag.
- Evidence of violence, such as visible injuries or bruising or damage to a vehicle, will need to be photographed. Likewise, evidence of emails, text messages, or phone messages must be preserved and not deleted or altered.
- Talk with a counselor who will maintain confidentiality, help explain your options, give you information, and provide emotional support. Contact someone you trust to be with you and support you.

Obligation to Investigate

Texas Health School has an obligation to:

- a. investigate all Title IX reports
- b. take prompt and effective steps to end Title IX violations
- c. prevent Title IX violations from recurring
- d. and remedy the effect of Title IX violations.

To the greatest extent possible, Texas Health School will respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Upon receipt of a report, the Title IX Coordinator, or Designee, will promptly contact the Complainant and notifying them of the policy and procedures, availability of supportive measures, and ability to file a Formal Complaint. Reports do not automatically trigger the initiation of a formal grievance procedure. The Title IX Coordinator also provides the following: information on the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, the ability to receive supportive measures with or without filing a report, information about the process for filing a Formal Complaint.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available without fee or charge to the Complainant or the Respondent, before or after the filing of a Formal Complaint, or where no Formal Complaint has been filed. Supportive Measures are designed to balance restoring or preserving access, without unreasonably burdening the other Party, unless the Respondent has been found responsible in which case the burden to Respondent does not prevent imposition of Supportive Measures. Additionally, they are intended to protect the safety of all Parties

and/or deter sexual harassment. Supportive Measures include counseling, extension of deadlines or other course-related adjustments, modification of work or class schedules, campus escort services, mutual orders of no contact, changes in work or housing locations, leaves of absences, increased security, and monitoring of certain area. Please visit the Supportive Measures of the School's website for a full list of resources. The College will maintain the privacy of any Supportive Measures provided under this Policy to the extent practicable and will promptly address any reports of retaliation or violations of mutual no contact orders. The School has the discretion to impose and/or modify any Supportive Measures based on all available information.

Supportive measures include, but are not limited to the following:

- Counseling
- Extension of deadlines or other course related adjustments
- Mutual order of no contact
- Changes in work schedule
- Leave of absences
- Increased security and monitoring of certain areas
- Additional Support Resources

Emergency Removal: The School may impose an interim emergency removal of a Respondent prior to or during the grievance process. Such action may be taken when, after an individualized safety and risk analysis, a School official has determined that an immediate threat to the physical health or safety of any student or other individual exists.

Respondent will be provided with written notice including information about the grievance process, including an opportunity to challenge the dismissal; identities of the Parties involved in the incident, if known; the conduct allegedly constituting sexual harassment; the date and location of the alleged incident. Respondents wishing to challenge an Emergency Removal must submit a written appeal of such decision within five (5) Business Days. Appeals must be submitted to the Campus Director.

The Campus Director will provide their decision to the Respondent within five (5) Business Days of receiving the appeal. If the appeal is denied, the emergency removal may remain in effect through the conclusion of the grievance process, including the appellate process.

Administrative Leave: The School may place an employee, including student employees, on administrative leave from employment prior to or during the grievance process outlined. Additionally, administrative leave is not indefinite and will be provided updates regarding their status.

EDUCATION, PREVENTION, AND AWARENESS PROGRAMS AND TRAINING OF SCHOOL OFFICIALS

1. The School promotes the Health and Human Services prevention programs, awareness strategies, and campaigns intended to reduce and eliminate sexual misconduct or other forms of prohibited conduct which
 - i. are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome. Online courses from National Sexual Violence Resource Center <https://campus.nsvrc.org/course/index.php?categoryid=33> are made available for the staff and students to attend.
 - ii. consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels; and
 - iii. include primary prevention and awareness programs directed at incoming students and ongoing prevention and awareness campaigns directed at current students.

Resources – THHS Sexual Violence Prevention Program - [Sexual Violence Prevention | Texas DSHS](#)

City of Houston Crime Stoppers Program - [Sexual Assault | Crime Stoppers Of Houston \(crime-stoppers.org\)](#)

2. **Risk Reduction** means practices designed to decrease the potential for Sexual Misconduct, and to increase empowerment for victims and bystander intervention in order to promote safety and to help individuals and communities address conditions that facilitate violence. Experiencing Sexual Misconduct or other forms of prohibited conduct is never the victim's fault. Only abusers are responsible for the abuse they perpetrate. However, there are resources to help reduce risk of victimization, including this list from The Rape, Abuse, & Incest National Network ([National Sexual Assault Hotline: Confidential 24/7 Support | RAINN](#))
3. **Bystander Intervention:** Bystanders play a critical role in the prevention of sexual and relationship violence. Bystanders are “individuals who observe violence or witness the conditions that perpetuate violence. These individuals are not directly involved but have the choice to intervene. The School promotes a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. Individuals may not always know what to do even if they want to help. Below is a list of some ways to be an active bystander. If you or someone else is in immediate danger, dial 911, if a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt. Houston Coalition Against Hate (HCAH) is a network of community-based organizations, institutions, and leaders committed to addressing all incidents of hate, bias, discrimination, and violence on the basis of a person or group's religion, race/ethnicity, gender, gender identity/expression, abilities, age, sexual orientation, national origin, creed, immigration status, or genetic information. HCAH offers a

monthly bystander intervention training course that our students are recommended to attend.

4. **Disability Accommodation** Students with a disability who desire accommodation regarding this Policy must request accommodation by following the procedure for requesting accommodation through the office of the Campus Director. Employees with a disability who desire accommodation regarding this Policy should request accommodation with the Campus Director and or the Campus President.

RECORD RETENTION

The School will keep for seven (7) years, the following:

- i. All information obtained as part of each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any disciplinary sanctions and/or remedies; any appeal, including the result of the appeal; and any informal resolution and the result therefrom.
- ii. All information regarding any action taken, including Supportive Measures, and a rationale as to why a Formal Complaint was not filed. If a Complainant was not provided Supportive Measures, a rationale must be provided as to why Supportive Measures were not provided.
- iii. All training materials used to train Title IX Coordinators, Investigators, and Decision Makers, and those who facilitate the informal resolution process will be kept in the Office of the President, and current training materials will be available on the School's website.
- iv. Generally, information from a student's Discipline File is not released without the written consent of the student. However, certain information may be provided to individuals within or outside the School who have a legitimate legal or educational interest in obtaining it. Typically, the information that is released to those outside of the school is limited to information associated with findings of "in violation" which resulted in a suspension or expulsion (Discipline File). Please refer to the Federal Family Educational Rights and Privacy Act of 1974 (FERPA).
- v. Personnel files are the property of the College and will not be shared without a subpoena, except upon request by the individual whose records are contained in the personnel file.

REVISION AND INTERPRETATION

1. The Policy is maintained by the Campus Director's Office and is effective April 10th, 2024. The School reserves the right to review and update the Policy in accordance with changing legal requirements and specific needs of the School.

2. Any questions of interpretation regarding the Policy shall be referred to the Title IX Coordinator, or Designee for determination. The Title IX Coordinator or Designee's determination is final.

3. All reports received by the School after this date will be administered in accordance with the procedures described under this Policy.

FREEDOM OF EXPRESSION AND ACADEMIC FREEDOM

Texas Health School is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, and service. Nothing in this Policy shall be construed to penalize a member of the community for expressing an opinion, theory, or idea in the process of responsible teaching and learning. Accordingly, any form of speech or conduct that is protected by the principles of academic freedom or the First Amendment to the United States Constitution is not subject to this Policy

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