

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: General Administration

NUMBER: 01.D.08

AREA: Legal Affairs

SUBJECT: Sexual Misconduct Policy

1. PURPOSE

- 1.1. This Policy provides the exclusive mechanism for managing the non-criminal reporting, processing, investigation, and resolution of complaints of sexual misconduct filed with the University of Houston System and its universities (“University”). For the purpose of this Policy, Sexual Misconduct is defined as:
- Sexual Harassment
 - Non-Consensual Sexual Contact
 - Sexual Assault
 - Sexual Exploitation
 - Sexual Intimidation
 - Intimate Partner Violence (Domestic and Dating Violence)
 - Stalking
- 1.2. The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. Sexual Misconduct (as defined in this policy), a form of sex discrimination, is antithetical to the standards and ideals of the University. The University will take appropriate action in an effort to eliminate Sexual Misconduct from occurring, prevent its recurrence, and address its effects.
- 1.3. The University aims to eradicate Sexual Misconduct through education, training, policies, and serious consequences for violations of its policies. The University will conduct educational programs, including ongoing prevention and awareness campaigns, designed to promote awareness and prevent Sexual Misconduct.
- 1.4. This Sexual Misconduct Policy (“Policy”) defines and describes prohibited sexual conduct and establishes a procedural mechanism for providing a prompt, fair, and impartial investigation and resolution of complaints of Sexual Misconduct. (Please see the University’s Anti-Discrimination Policy, [SAM 01.D.07](#), to find the

procedural recourse for responding to unlawful discrimination and harassment incidents that do not constitute Sexual Misconduct.)

- 1.5. Consistent with its commitment to addressing sex discrimination and harassment, the University complies with Title IX of the Education Amendments of 1972 (“[Title IX](#)”), which prohibits discrimination on the basis of sex in education programs or activities, Title VII of the Civil Rights Act of 1964 (“[Title VII](#)”), which prohibits sex discrimination in employment, Section 304 of the Violence Against Women Reauthorization Act of 2013 (also known as the Campus Sexual Violence Elimination Act ([SaVE Act](#))) and applicable state law, including Texas Education Code §51.259 and §51.295. Sexual Misconduct, as defined in this Policy, constitutes a form of sex discrimination prohibited by Title IX and Title VII. The University also prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking as those terms are defined for purposes of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Inquiries concerning the application of Title IX may be referred to the [University Title IX Coordinator](#) or to the U.S. Department of Education Office for Civil Rights.
- 1.6. All Members of the University Community are expected to adhere to this policy, to cooperate with the procedures for responding to complaints, and to report conduct or behavior that they believe to be in violation of this Policy (See Sections 8, 9, and 10 for reporting procedures). The University will take allegations of Sexual Misconduct seriously and will take prompt disciplinary action against any individuals within its control who violate this Policy. During its investigation into these matters, the University will work to ensure that all persons are given appropriate support and fair treatment.
- 1.7. This Policy applies to all University administrators, faculty, staff, students, and third parties within the University’s control, including visitors and applicants for employment. This Policy applies regardless of the Complainant’s or Respondent’s sex, sexual orientation, gender identity, gender expression, immigration status, or citizenship status. Moreover, acts of Sexual Misconduct can occur between strangers or acquaintances.
- 1.8. In implementing this Policy, the University, to the greatest extent practicable, ensures equal access for students, faculty, and staff who are persons with disabilities. The University will make reasonable efforts to consult with its disability services office, advocacy groups for people with disabilities, and other relevant stakeholders to assist the institution with providing equal access.
- 1.9. Prohibited actions defined in this Policy may also constitute a violation of criminal law. Anyone who reports Sexual Misconduct will be notified of their right to speak to the appropriate law enforcement agency and file a report for possible criminal prosecution.
- 1.10. This [Sexual Misconduct Policy](#) has also been adopted for each University by the System as its Policy on Sexual Harassment, Sexual Assault, Dating Violence and Stalking. It is available to students, faculty and staff in the University’s student,

faculty and personnel handbooks and through the University's web page dedicated solely to the Policy that is easily accessible through a clearly identifiable link on the University's homepage.

- Each University emails students the protocol for reporting incidents of sexual misconduct, including the University's Title IX Coordinator's name, office location and contact information at the beginning of each semester or academic term.
- Each University permits employees and enrolled students to electronically report allegations of sexual misconduct.
- Electronic reporting of incidents of sexual misconduct is permitted to be made anonymously.
- Electronic reporting of incidents of sexual misconduct is accessible through a clearly identifiable link on the University's homepage.

2. GENERAL DEFINITIONS

- 2.1. Complainant – A party or entity (in the case of the University) who makes a complaint of Sexual Misconduct under Section 15 of this Policy.
- 2.2. Confidential Resource Employee – A University employee designated as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking, or who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law. Such employees include:
 - A. The staff of a counseling or health center acting in their capacity as a counseling or health provider, and
 - B. Individuals who are associated with the University in the role of a pastoral counselor or confidential advisor acting in that capacity.
- 2.3. Intimate Partner Violence – A term used to describe a range of prohibited actions that occur between people who have or have had a romantic or sexual relationship. Intimate partner violence can be a single event or a pattern of behavior that includes sexual and/or physical abuse. The term encompasses domestic violence and dating violence as further described in Section 6.7 of this Policy.
- 2.4. Respondent – A party who has been accused of committing an act of Sexual Misconduct by a Complainant under Section 15 of this Policy.
- 2.5. Responsible Employee – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, and staff, except any employee with confidentiality obligations as defined in Section 10 of this Policy.
- 2.6. Sexual Activity – Penetration, however slight, of the:

- A. Vulva by a penis, object, tongue, or finger;
- B. Anus by a penis, object, tongue, or finger;
- C. Mouth by a penis, vulva, object, tongue, or finger in a sexual manner.

Sexual Activity also includes:

- A. Any intentional contact with another's intimate body parts defined as the person's breasts, buttock(s), groin, or genitals;
- B. Touching another with any of these body parts;
- C. Making or causing another to touch a person or themselves with or on any of these body parts; and/or
- D. Any intentional bodily contact in a sexual manner, even if it does not involve contact with/of/by breasts, buttock(s), groin, genitals, mouth, or other orifice.

2.7. Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, stalking, and intimate partner violence as further described in this Policy.

2.8. Student – A person who; (a) is currently enrolled at the University; (b) is accepted for admission or readmission to the University; (c) has been enrolled at the University in a prior semester or summer term and is eligible to continue enrollment in the semester or summer term that immediately follows; (d) is attending an educational program sponsored by the University while that person is on campus; or (e) has engaged in prohibited conduct at a time when he/she met the criteria of (a), (b), (c), or (d).

2.9. Title IX Coordinator – The person who has been designated on each component university's campus to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is responsible for conducting the administrative investigation of reports of Sexual Misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Assistant Title IX Coordinators. The Title IX Coordinators for each university are located here:

- University of Houston System/University of Houston
Assistant VC/VP for Equal Opportunity Services
(713) 743-8835
- University of Houston – Downtown
Title IX Coordinator
(713) 221-5771

- University of Houston – Clear Lake
Title IX Coordinator
(281) 283-2305
- University of Houston – Victoria
Title IX Coordinator
(361) 570-4835

In the event that there is a conflict of interest for a university’s Title IX Coordinator, the UH System Title IX Coordinator will appoint another university’s Title IX Coordinator to serve in their place. If there is a conflict for the System Title IX Coordinator, the Vice Chancellor for Legal Affairs will appoint another university’s Title IX Coordinator to serve in their place.

- 2.10. University-Affiliated Activity – Any activity on or off campus that is initiated, aided, authorized or supervised by the University or by an officially-recognized organization of the University.
- 2.11. University Community – Members of the University Community include:
 - University faculty, staff, administrators, employees, and contractors;
 - University students;
 - Volunteers and participants in any University program or activity; and
 - Guests and visitors to campus, to any property owned or leased by the University, or to any property owned or leased by any University Affiliated organization or group.
- 2.12. University Premises – Buildings or grounds owned, leased, operated, controlled or supervised by the University.

3. JURISDICTION

- 3.1. The University has jurisdiction over, and will respond to, allegations of Sexual Misconduct occurring on the University’s premises, at University-Affiliated Activities, and/or where both the Respondent and Complainant are either a student, faculty member, or staff member. Other than the University Police Department which may conduct a criminal investigation as appropriate, the University does not have jurisdiction over allegations between visitors or nonaffiliated persons under this Policy.
- 3.2. The University has the discretion to investigate conduct occurring off University premises or at a non-University-Affiliated Activity if either the Complainant or Respondent is University-Affiliated.
- 3.3. The process outlined in this Policy is separate from any criminal proceeding related to the reported behavior and may occur while criminal proceedings are ongoing.

- 3.4. Proceedings under this Policy will not be dismissed or delayed because criminal prosecution is pending, criminal charges have been dismissed, or the criminal charges have been reduced.
- 3.5. Proceedings will continue even if a party is no longer employed with or a student of the University.
- 3.6. The University does not limit the time frame for filing a complaint of Sexual Misconduct. Complaints can be submitted at any time following an incident, although the University's ability to take action may be limited by the passage of time.

4. CONSENT

- 4.1. For purposes of this Policy, consent is an informed and freely and affirmatively communicated willingness to participate in a particular sexual activity by a capacitated or legally competent person.
- 4.2. Consent can be expressed either by words or by clear and unambiguous actions, as long as those words or actions create mutually understandable permission regarding the conditions of each instance of sexual activity.
- 4.3. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging the receipt of consent, and individuals are thus urged to seek consent in verbal form for each instance of sexual activity before they initiate the sexual activity.
- 4.4. It is the responsibility of the person who wants to initiate a sexual activity to ensure that they have the consent of the other(s) to initiate each instance of sexual activity before they initiate the sexual activity.
- 4.5. Consent is active, not passive, and cannot be inferred from the absence of a "no."
- 4.6. Without words or actions demonstrating permission, silence, lack of protest, or lack of resistance cannot be assumed to show consent.
- 4.7. The existence of a dating relationship or a previous sexual relationship between the persons involved does not provide the basis for an assumption of consent to future sexual activity.
- 4.8. Consent must be present throughout the sexual activity, and consent to some form of sexual activity cannot be automatically taken as consent to any other sexual activity.
- 4.9. A participant can communicate that they no longer consent to continuing the sexual activity at any time.
- 4.10. If there is confusion as to whether an individual has consented or continues to consent to sexual activity, it is essential that the initiating person stops the sexual activity until the confusion is clearly resolved.
- 4.11. Alcohol or other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and effectively given. Consent is

difficult to discern when a person has ingested alcohol and/or other drugs. Anyone wanting to initiate sexual activity is strongly encouraged to err on the side of caution when either they or the person(s) they want to initiate the activity with appear(s) to be intoxicated or there is reasonable cause to believe either party is intoxicated.

- 4.12. Being under the influence of drugs and/or alcohol is never a defense for not obtaining consent.
- 4.13. A person cannot consent if physical force or violence is used or threatened.

5. INCAPACITATION

- 5.1. A person is incapacitated (not legally competent) and cannot consent to sexual activity if:
 - A. The person is unconscious or otherwise unable to resist;
 - B. The person is unaware that sexual activity is occurring; and/or
 - C. The person does not have the legal capacity to consent.

Examples of non-consensual sexual activities in the State of Texas Penal Code can be found at

<http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm#22.011.>)

- 5.2. Further, a person may be unable to consent when they are mentally or physically incapacitated because of the influence of drugs, alcohol, or medication and as a result are rendered temporarily incapable of understanding, appraising, or controlling their conduct.
- 5.3. A person's incapacity to understand, appraise, or control their conduct may be analyzed based on surrounding factors including, but not limited to, hallucinations, blackouts, seizures, vomiting, slurred speech, disorientation, or lack of physical or mental coordination.
- 5.4. When a Respondent has been accused of engaging in sexual activity with an incapacitated person, the perspective of a reasonable person standard will be applied to determine whether the Respondent knew or should have known about the Complainant's ability to give consent.

6. FORMS OF SEXUAL MISCONDUCT AND SEX DISCRIMINATION

6.1. Sexual Harassment

Sexual harassment is unwelcome, sex-based verbal, written or physical conduct that:

- A. in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile or offensive work environment; or
- B. in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit

from the educational programs or activities at a postsecondary educational institution.

For the purposes of this section, “sex-based” means of a sexual nature, directed at someone, or against a particular group, because of that person’s or group’s sex, or based on gender stereotypes For the purposes of this section, sexual harassment can be demonstrated when behavior meets either of the following criteria:

- C. Submission or consent to the behavior is believed to carry consequences for the individual’s education, employment, on-campus living environment, or participation in a University-Affiliated Activity. Examples of this type of sexual harassment include, but are not limited to:
 - 1. Pressuring another to engage in sexual behavior for some educational or employment benefit; or
 - 2. Making a real or perceived threat that rejecting sexual behavior will result in a negative tangible employment or academic consequence.

- D. The behavior has the purpose or effect of interfering with another’s work or educational performance by creating an intimidating or hostile environment for employment, education, on-campus living, or participation in a University-Affiliated Activity. Examples of this type of sexual harassment can include, but are not limited to:
 - 1. Persistent unwelcome efforts to develop a romantic or sexual relationship;
 - 2. Unwelcome commentary about an individual’s body or sexual activities;
 - 3. Unwanted sexual attention;
 - 4. Repeatedly engaging in sexually-oriented conversations, comments, or horseplay, including the use of language or the telling of jokes or anecdotes of a sexual nature in the workplace, office, or classroom, even if such conduct is not objected to by those present; or
 - 5. Gratuitous use of sexually-oriented materials not directly related to the subject matter of a class, course, or meeting, even if not objected to by those present.

The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. A single or isolated instance of sexual harassment may create a hostile environment if the incident is sufficiently severe.

6.2. Non-consensual Sexual Contact

Non-consensual Sexual Contact is a form of sexual harassment that includes any intentional touching in a sexual manner, however slight or momentary, or the use of an object to touch another in a sexual manner.

Examples of Non-consensual Sexual Contact under this Policy include, but are not limited to, the following non-consensual sexual activity:

- A. Unwanted touching of a sexual nature; and
- B. Use of force or intimidation to make someone else engage in non-consensual sexual touching; and
- C. Sexual Exploitation and Sexual Intimidation.

6.3. Sexual Assault

For purposes of this Policy, Sexual Assault is sexual intercourse that occurs without consent.

Examples of Sexual Assault under this Policy include, but are not limited to, the following non-consensual sexual acts:

- A. Penetration, however slight, of an orifice (anal, vaginal, oral) with the vulva, anus, or mouth, by a penis, finger, or other object; and
- B. Other acts of oral sex or anal stimulation, and
- C. Knowingly exposing a person to and/or transmitting a sexually-transmitted infection or HIV/AIDS to another person.

The definition of Sexual Assault as used in this Policy may constitute sexual assault in Texas. Relevant state law can be found at <http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm#22.011>.

6.4. Sexual Exploitation

Sexual Exploitation is a form of sexual harassment that occurs when a party takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Sexual Misconduct offenses. Examples can include, but are not limited to, the following behaviors:

- A. Prostituting another;
- B. Non-consensual recording, photographing, or transmitting intimate or sexual utterances, sounds, or images electronically or by other means without the knowledge and consent of all parties involved;
- C. Voyeurism or watching or recording someone when that person is in a place where they would have a reasonable expectation of privacy;
- D. Going beyond the boundaries of consent (such as engaging in actions that were not consented to during an otherwise consensual encounter);

- E. Distributing intimate or sexual images about another person without that person's consent, even if the images were obtained consensually;

6.5. Sexual Intimidation

Sexual Intimidation is a form of sexual harassment that involves threatening another with behavior of a sexual nature.

Examples of this include, but are not limited to, engaging in indecent exposure (aka "flashing"), or transmitting or displaying a nude image where the action was unsolicited and a reasonable person would feel threatened or intimidated.

6.6. Stalking

- A. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1. Fear for their safety and/or the safety of others; or
- 2. Suffer substantial emotional distress.

- B. For the purposes of this Policy, Stalking is considered a severe or pervasive form of harassment. This Policy will apply to acts of Stalking that:

- 1. Occur between people who currently have or have had a romantic or sexual relationship; or
- 2. Occur because of the Respondent's desire to have a romantic or sexual relationship with the Complainant.

- C. For the purposes of defining Stalking under this Policy:

- 1. A "course of conduct" is a pattern of behavior composed of two or more acts, whether directly by a Respondent or through third parties, over a period of time, however short, that evidence a continuity of purpose.
- 2. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- 3. A "reasonable person" means a reasonable person in the Complainant's circumstances.

- D. The University may consider multiple actions outlined in this definition as one act of stalking. A report of Stalking will be considered a new and distinct report if the behavior continues after an official intervention, including, not limited to:

- 1. University disciplinary action
- 2. The issuance of a no-contact order, or any warning/action by the University or a court.

- E. The Policy's definition of Stalking also extends to cyberstalking.
- F. The definition of Stalking as used in this Policy may constitute criminal stalking in Texas. Relevant state law can be found at <http://www.statutes.legis.state.tx.us/SOTWDocs/PE/htm/PE.42.htm>.

6.7. Intimate Partner Violence

- A. For purposes of this Policy, Intimate Partner Violence includes Domestic (Family) Violence and Dating Violence.

- B. Actions that may violate this policy include, but are not limited to:

1. Acts of physical violence
2. Threats of physical violence
3. Abduction, restraint, or false imprisonment
4. Actions that may constitute a felony or misdemeanor crime of violence according to the laws of jurisdiction where the incident occurred.

- C. Domestic Violence

Domestic Violence includes felony or misdemeanor crimes of violence committed by:

1. A current or former spouse or intimate partner of a Complainant
2. A person with whom a Complainant shares a child in common
3. A person who is cohabitating with or has cohabitated with a Complainant as a spouse or intimate partner
4. A person similarly situated to a spouse of victim Complainant under the domestic or family violence laws of the State of Texas <http://www.statutes.legis.state.tx.us/SOTWDocs/CR/htm/CR.5.htm>

- D. Dating Violence

Dating violence includes acts between people who are currently or were formerly in a social relationship of a romantic or intimate nature.

For the purposes of this Policy, the existence of such a relationship shall be determined by the Complainant; however, EOS will also consider all of the following:

1. The length of the relationship; and
2. The type of relationship; and
3. The frequency and nature of interaction between the persons involved in the relationship.

6.8. Additional Actions that Constitute a Violation of this Policy

- A. An attempt and/or threat to engage in conduct that would otherwise constitute a violation of this Policy;
- B. Knowingly aiding another in violating this Policy;
- C. Knowingly covering up actions by oneself or others that would constitute a violation of this Policy, including removing, hiding, altering, or destroying evidence;
- D. Knowingly engaging in actions that impede or obstruct a University investigation related to this Policy; and
- E. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information.
- F. Knowingly failing to make a report of sexual harassment, sexual assault, dating violence or stalking when the Responsible Employee was required to do so;
- G. Knowingly making a false report of sexual harassment, sexual assault, dating violence or stalking with intent to harm or deceive.

7. REPORTING RIGHTS

- 7.1. Complainants have the right to decide if and when they report the incident(s) to the University, law enforcement, or to any other member of the University community. The University strongly encourages individuals to access services, such as counseling and medical help, that can respond to the immediate mental and physical impact of an act of Sexual Misconduct. Individuals can access these services regardless of whether they report what happened.
- 7.2. The University strongly encourages reporting as soon as possible. Prompt reporting may preserve options that delayed reporting does not, including immediate police response and the preservation of physical evidence that may be necessary to prove an alleged criminal offense or to obtain a protective order.
- 7.3. Once an individual alerts the University of an alleged violation of this Policy they will be provided with written information including this Policy, their rights, reporting options, and support resources.
- 7.4. Complainants have multiple options regarding involvement of law enforcement and campus authorities, including:
 - The option to notify proper law enforcement authorities including on campus and local police; and
 - The option to be assisted by campus authorities in notifying law enforcement authorities; and

- The option to decline to notify such authorities.
- 7.5. Whether an alleged violation of this Policy occurs on or off-campus, a Complainant will be provided written notification of their rights and options.
- 7.6. Anyone can receive information about this Policy, their rights under the Policy, reporting options, and support resources without disclosing facts related to the alleged incident.

The following members of the University community can provide this information but may be required reporters (see Section 8):

- Title IX Coordinator and any Assistant Coordinators
- Campus law police and/or security
- Campus-based counseling staff
- Campus-based student health center staff
- Human Resources staff
- Dean of Students Office staff
- Student Housing and Residence Life professional staff

Each component may have their own programs and services related to the issues covered by this Policy so there may be additional resources for information on your campus.

- 7.7. Anonymous reporting may be conducted through the Fraud and Non-Compliance Hotline, as described in Section 9 of this policy.

8. REQUIRED REPORTING

- 8.1. An employee of the University, who, in the course and scope of their employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the University at the time of the incident regardless of when or where the incident occurred shall promptly report the incident to the University's Title IX coordinator or deputy Title IX coordinator. This does not apply to any employee with confidentiality obligations as defined in Section 10 of this Policy. It also does not apply to an incident in which the employee was a victim of sexual harassment, sexual assault, dating violence, or stalking.
- 8.2. A Confidential Resource Employee, shall, in making a report under this section, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy.

8.3. In addition, some individuals who are not Responsible Employees who must share reports of Sexual Misconduct with the Title IX Coordinator and/or deputy Title IX Coordinator, include, but are not limited to:

- A. Elected Members of Student Government Associations, and
- B. Individuals, including students, serving as responsible persons, even if they are volunteers, at a University-Affiliated Activity. These individuals could be teaching, graduate assistants, research assistants, chaperones, peer mentors, or retreat counselors.

These individuals are required to report because they are either in a position to do something about the alleged actions, may be perceived to be able to do something about the alleged action, or would otherwise have to report known or suspected incidents of Sexual Misconduct.

8.4. Anyone who is required to report known or suspected violations of this Policy must promptly contact the Title IX Coordinator and/or a Title IX deputy Coordinator and disclose what they know about the alleged incident. Even if a required reporter is a Campus Security Authority, and must provide a report to law enforcement or other campus departments, the reporter must also directly notify the Title IX Coordinator and/or deputy Title IX Coordinator as soon as possible.

8.5. Reports should include all information concerning the incident known to the reporting person, including all relevant details such as the following:

- A. The name of the Respondent (if known) and any affiliation with the University System (if known);
- B. The name of the Complainant and any affiliation with the University System (if known);
- C. The names of other people who may be involved;
- D. Relevant facts, including date, time, and location of the incident(s); and
- E. Whether a Complainant has expressed a desire for confidentiality in reporting the incident.

8.6. The University will comply with all applicable state laws regarding mandatory reporting for known or suspected abuse, neglect, or exploitation of a child or a vulnerable adult.

8.7. Individuals who are not required to report and who are not bound by state confidentiality laws are still encouraged to report known or suspected violations of this Policy and may do so through the confidential and non-confidential methods listed in Sections 9 and 10 of this Policy.

8.8. Public awareness events such as “Take Back the Night,” candlelight vigils, protests, “survivor speak outs” or other forums in which members of the

community disclose incidents of violations of this Policy are not considered notice to the University for the purpose of triggering its obligation to investigate.

However, information regarding rights under this Policy will be available to anyone who discloses Sexual Misconduct at one of these types of events.

- 8.9. Reporting to Outside Entities: An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct:

Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
Phone: (214) 661-9600
Fax: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission
Houston District Office
1919 Smith Street, 6th Floor
Houston, Texas 77002
Phone: (800) 669-6820
Fax: (713) 651-4987

9. ANONYMOUS REPORTING

- 9.1. Complainants and others not required to report may submit a report through a web-based reporting system called the Fraud and Non-Compliance Hotline, which allows the option of anonymity.
- 9.2. The web address for the Fraud and Non-Compliance Hotline is <https://app.convercent.com/en-us/LandingPage/b3d1c670-e06c-e711-80cf000d3ab0d899>.
- 9.3. Reports received through this site will be reviewed and may be investigated.
- 9.4. The University will work with anyone who is identified via a Fraud and NonCompliance Hotline report or subsequent investigation to provide anonymity to the full extent possible under this policy.
- 9.5. Upon receipt of an anonymous report that implicates the Sexual Misconduct policy, the Title IX Coordinator will invite the reporter to formalize the report into a formal complaint. While interim measures and actions are available to anonymous reporters without filing a formal complaint, Equal Opportunity Services (“EOS”) Finding(s) as described in Section 15.5 requires a formal complaint.

- 9.6. If the anonymous reporter decides to pursue a formal complaint, the complaint process will follow Section 15, “Formal Complaint Procedures.”
- 9.7. If the anonymous reporter declines to pursue a formal complaint, the Title IX Coordinator may pursue a complaint on behalf of the University after considering the factors described in Section 15.1.B.2 of this Policy.

10. CONFIDENTIALITY

- 10.1. The University will protect the anonymity of all individuals involved in a report or a complaint by refusing to disclose their identifying information to anyone outside the University to the maximum extent permitted by law.
- 10.2. The University designates one or more employees as persons to whom enrolled students may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking. The University notifies each enrolled student of the confidential advisor(s) designated under this subsection
- 10.3. The University may designate one or more enrolled students as student advocates to whom other enrolled students may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking as approved by Equal Opportunity Services. The University notifies each enrolled student of the student advocate(s) designated under this subsection.
- 10.4. Community-based programs not affiliated with the University may also be confidential resources and would follow their own policies and procedures regarding reporting duties.
- 10.5. Individuals may request that their report be investigated by the University without providing their name to the Respondent or witnesses. However, this may reduce the University’s ability to thoroughly investigate a report. When the University cannot fully investigate a report or take appropriate disciplinary action because of a request for an investigation with an anonymous Complainant, the University will pursue other steps to limit the effects of the alleged violation, attempt to prevent its recurrence, and respond to the impact on the involved parties and the community.
- 10.6. If an individual discloses an incident to a responsible employee but wishes to maintain confidentiality and/or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University will balance a request for confidentiality with its responsibility to provide a safe and nondiscriminatory environment for the University community.
- 10.7. Requests for confidentiality will be evaluated on a case-by-case basis by the Title IX Coordinator in cooperation with appropriate administrators and will consider a range of factors, including but not limited to the following:
 - A. Whether there is an increased risk that the Respondent may commit additional violations of this Policy;
 - B. Whether a weapon was used;

- C. Whether the Complainant is a minor;
- D. Whether there are other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence); and
- E. Whether the report reveals a pattern of alleged actions.

The presence of one or more of these factors could lead the University to investigate, and, if appropriate, pursue disciplinary action against Respondents under its control.

- 10.8. Information will be shared within the University only to those individuals with a legitimate need to know.
- 10.9. The University will protect the confidentiality of Complainants and other necessary parties while ensuring *Clery Act* statistical reporting requirements, specifically, such statistical reporting will be done without inclusion of personally identifying information about a Complainant.
- 10.10. The University will maintain as confidential any accommodations or protective measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

11. RETALIATION

- 11.1. The University takes reports of Sexual Misconduct very seriously and will not tolerate retaliation against those who make such reports or participate in the investigation or adjudication process.
- 11.2. Retaliation includes, but is not limited to, any adverse employment or educational action taken for making a report of Sexual Misconduct or otherwise participating under this Policy.
- 11.3. Any actual or threatened retaliation, or any act of intimidation to prevent or otherwise obstruct the reporting of a violation of this Policy or the participation in proceedings relating to a report of Sexual Misconduct, may be considered a separate violation of this Policy and may result in disciplinary sanctions.
- 11.4. Any person who believes that they have been subjected to retaliation should immediately report this concern to their Title IX Coordinator or an Assistant Coordinator.

12. IMMEDIATE ASSISTANCE

- 12.1. Medical Assistance: An individual who experiences any form of sexual misconduct, domestic, or dating violence is encouraged to seek immediate medical care. Preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam

(SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within four (4) days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, please go to the nearest hospital that provides SAFE services.

For more information about the SAFE, see <http://uhsystem.edu/salutations/reporting/>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases in which a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care because he or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

- 12.2. **Police Assistance:** Because the prohibited actions outlined in this policy may also constitute a criminal acts, individuals seeking emergency assistance or who want to file a criminal report may contact their University police department or the appropriate municipal law enforcement agency. In addition to any possible criminal action, the University Police will forward the report to the Title IX Coordinator.

Reporting to the police helps maintain future options regarding criminal prosecution. Generally, when the victim reports the incident, a police officer will take a statement from the victim regarding what happened.

An adult victim can request that their identity be kept confidential.

Anyone wishing to file a report with University police can make a report to their component institution's Police Department as noted below:

- University of Houston Campus Police Department
<http://www.uh.edu/police> 713-743-3333
- University of Houston - Clear Lake Police Department
<http://www.uhcl.edu/police> 281-283-2273
- University of Houston - Downtown Police Department
<http://www.uhd.edu/police-department/Pages/default.aspx> 713-221-8911
- University of Houston – Victoria <http://www.uhv.edu/police/> 361-570-4245
- University of Houston – Katy Campus

Security station is located on the third floor of the UHV – Katy, 2002 W. Grand Parkway N., Building 2, Katy, Texas. Security can be reached at the duty desk at 281-396-3777.

- UH at Sugar Land
<http://www.uh.edu/sugarland/>

Security officers are assigned to UH at Sugar Land. Should anyone need assistance concerning an escort, safety or security matter, contact the police officer or security officer on duty by calling 832-842-2929.

If the security officer is not available during an emergency situation, dial 911.

- 12.3. Counseling Assistance: A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a Sexual Assault Forensic Exam (SAFE) or report the assault to the police.
- 12.4. Complainants will be provided written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available both within the University and in the community.
- 12.5. Interim Measures and Ongoing Assistance: When an incident of Sexual Misconduct is reported, the University will consider interim measures to protect involved persons including the Complainant and Respondent and/or the community while the incident is investigated and adjudicated through this Policy.
 - A. A Complainant does not need to file a formal complaint to receive interim measures. Some interim measures may be implemented without a Complainant disclosing identifying information related to the incident(s). Interim measures include, but are not limited to, changes to academic, living, transportation, working situations, or protective measures. The University will make appropriate accommodations or provide such protective measures if requested and if they are reasonably available, regardless of whether the Complainant chooses to report the alleged violations of this Policy to University Police or local law enforcement. The University will assess whether an interim measure will involve making these changes to the Complainant or Respondent's circumstances on a case-by-case basis.
 - B. When the University offers counseling through University-Affiliated student counseling and employee assistance programs as an interim action, a Complainant or Respondent will not have to pay related fees for that counseling while the processes outlined in this Policy are on-going.
 - C. If an interim measure is refused by a party it may still be available at a later date.
 - D. No-contact orders can be issued under this Policy between the parties involved in a report or others related to a report as an interim measure. No-contact orders issued under this Policy can remain in effect indefinitely and are not contingent upon a formal complaint.

- E. Violations of interim measures may be considered a separate violation under this Policy or may be investigated and adjudicated through other relevant University policies.
- F. The University will honor any order of protection, no-contact order, restraining order, or similar lawful order issued by any criminal, civil or tribal court.

12.6. Resolution Agreement

If a report or complaint alleges a violation of this policy other than Sexual Assault, the Title IX Coordinator will determine if the issue is eligible for informal resolution using a Resolution Agreement. If so, the Complainant and Respondent may agree to resolve the report or complaint by agreement rather than after a finding by EOS under this policy. Under a Resolution Agreement, the parties agree that without a finding by EOS, the Respondent will participate in training or other conditions as set forth in the Resolution Agreement. The Resolution Agreement is not an admission of guilt or responsibility by the Respondent, and neither party has the right to appeal.

13. REPORT PRELIMINARY RESPONSE PROCEDURES

- 13.1. A report of a violation of this Policy does not automatically begin the formal complaint procedures, listed in Section 15 of this Policy.
- 13.2. The University will determine the appropriate preliminary response to each report based on the information available at the time of the report and, whenever possible, with the input of the Complainant.
- 13.3. When the University receives a report regarding an alleged violation of this Policy, it will take reasonable measures to do the following:
 - A. Contact the Complainant to notify them of their rights and options under this Policy;
 - B. Implement any appropriate interim measures; and
 - C. Complete a preliminary investigation, as appropriate.

14. PERSONAL ADVISORS

Any named party will have the same opportunity to have a personal advisor of their choice present during any meeting or proceeding related to the investigation of Sexual Misconduct. This advisor may be an attorney, provided at their own expense, with no cost to the University.

- 14.1. The student will need to sign a [FERPA Release form](#) for the advisor to be present at any meeting or proceeding. The form allows staff to speak freely about the student's case when the advisor is present. The student may revoke the release form in writing if they choose to no longer have the individual serve as their advisor or have access to the matter.

- 14.2. Advisors may attend any meeting or proceeding related to the investigation, but may not speak on the part of the individual he or she is advising or be a witness. An advisor may ask to briefly suspend any meetings, interviews, or hearings to provide private consultation related to the meeting or proceeding in process.
- 14.3. An advisor will not be permitted to speak on behalf of the advisee, make an oral presentation, including an opening or closing argument, be a witness, or question witnesses, the EOS representative, or the Panel during the hearing. An advisor may respond to a direct question from the investigator during a meeting or the Panel/Non-affiliated Hearing Officer during a hearing.
- 14.4. An advisor is subject to the same confidentiality expectations applicable to others in attendance. Accommodations, including scheduling of interviews or hearings, will not be made for any advisors if they unduly delay the process.

15. FORMAL COMPLAINT PROCEDURES

EOS, located at the University of Houston System/University of Houston, works in conjunction with each university's Title IX Coordinator to administer all aspects of this Policy. Investigations can be completed by the university's Title IX Coordinator, their appointee, or by EOS.

A formal complaint may be filed by the Complainant or by the University.

The timeframes set forth in this Policy may be extended when there is good cause to do so. The Complainant (or the non-participating complainant in cases where the University files the complaint) and the Respondent(s) will be notified in writing of the delay and the reason for the delay. Any proceedings under this Policy will be conducted in a prompt, fair and impartial manner from initial investigation to final result.

15.1. Step One: Filing a Complaint

- A. If the Complainant wishes to pursue a formal complaint, they will be asked to complete a Formal Complaint Questionnaire with their Title IX Coordinator, who will forward the complaint to EOS.
- B. If the individual who would be categorized as a Complainant does not wish to pursue a formal complaint:
 - 1. The University may determine that it will serve as the Complainant if the individual declines to file a formal complaint.
 - 2. The decision to file a complaint with the University as Complainant is not taken lightly and will be determined based on various factors including, but not limited to, the type of actions alleged in the report, prior reports received, potential for repeated behavior, and/or potential on-going risk to the non-participating complainant and/or the University Community.
- C. The University does not limit the timeframe for filing a complaint of Sexual Misconduct. Complaints can be submitted at any time following

an incident, although the University's ability to take any action may be limited because of the passage of time.

- D. Within five (5) business days after receiving a formal complaint, EOS will provide a copy of the complaint to the Respondent(s), as well as a copy of this policy and other available resources.
- E. Once a complaint is filed, if the Complainant decides that they want to withdraw the complaint, the University's investigation may still proceed.
- F. EOS may decline to pursue a complaint for failure to state a valid claim under this Policy. Before making this decision, EOS will discuss the complaint with the Complainant, and will suggest other options for assistance where applicable.

15.2. Step Two: Consideration of Interim Measures

- A. Although interim measures may have already been considered and implemented, EOS will again consider interim measures when a Formal Complaint has been filed to protect involved parties while the incident is investigated and adjudicated under this Policy.
- B. EOS and other appropriate University administrators will work together to identify alternative arrangements that will preserve the rights of both the Complainant and the Respondent(s), as well as provide a safe overall educational or working environment until (and perhaps after) the complaint is investigated and adjudicated.
- C. Failure to adhere to the parameters of any interim measure may be considered a separate violation of this Policy and may result in disciplinary action.

15.3. Step Three: Response to a Complaint

- A. A Respondent's response to the complaint is due to EOS within five (5) business days from the Respondent's receipt of the Complaint. EOS may grant an extension for good cause.
- B. The response should address and respond to the specific allegations made in the Complaint and can include any other rebuttal information.
- C. A response may be provided in writing or through an in-person interview with the investigator(s).
- D. While a Respondent is not required to provide a response to the complaint or answer questions related to the investigation, this will not stop the Formal Complaint Process. Failure to acknowledge the receipt of the Complaint may be considered a violation of relevant University policies and could result in additional action.

15.4. Step Four: EOS Investigation

- A. Absent extenuating circumstances, an investigation will begin upon receipt of a complaint of alleged Sexual Misconduct.
- B. An investigation may begin prior to receiving a response from a Respondent.
- C. The investigator(s) will attempt to interview the Complainant, the Respondent(s), and any witnesses, including those identified by the Complainant and Respondent, as appropriate.
- D. The investigator(s) will also gather and review any information they deem pertinent, as well as any information submitted by the Complainant, the Respondent(s), and/or any witnesses.
- E. The investigator will ensure that both the Complainant and Respondent have reasonable and equitable access to all evidence relevant to the alleged violation in the University's possession, including any statements made by the Complainant or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality.
- F. If during the course of an investigation additional actions that may constitute a violation of Policy are identified, the University will determine on a case-by-case basis whether and how to investigate those allegations. Facts used to make this determination include, but are not limited to, the type of action identified and whether the actions occurred during the same incident or during a separate incident.
- G. If a student (Respondent) withdraws or graduates while a sexual misconduct matter is pending, the University may not end the process or issue a transcript to the student until a final determination of responsibility is reached and will expedite the sexual misconduct complaint process as necessary to accommodate both the student's and the Complainant's interest in a speedy resolution.

15.5. Step Five: EOS Finding

- A. A finding by EOS will be issued as soon as practicable. The Complainant and Respondent(s) will have the opportunity, but are not required, to respond, to the EOS investigation report in writing in advance of the EOS finding. The Complainant and Respondent(s) should be provided updates on the progress of the investigation and issuance of the report.
- B. The finding(s) will be determined using a preponderance of the evidence standard; that is, whether it is more likely than not that a Respondent violated this Policy.

- C. If it is determined that this Policy was violated, appropriate university action will be recommended in an effort to eliminate Sexual Misconduct, prevent its recurrence, and address its effects.
- D. Even if it is determined that this Policy was not violated, a recommendation may be made that a Respondent undertake educational initiatives and/or trainings.
- E. The Complainant and the Respondent(s) will be simultaneously notified in writing of the outcome of its finding(s) and any appeal rights under this Policy.
- F. At any time after a finding has been made that a Respondent has violated the Policy, the University may implement an interim sanction against the Respondent while the complaint is being further adjudicated.
- G. Once findings have been made, either any party to the complaint may request to meet with the investigator(s) to discuss the investigation and, finding(s), and/or to inspect the investigative file.

15.6. Step Six: New Information

- A. If a party has new information they believe would have significantly impacted the finding(s) (e.g., witness testimony, documents or other tangible evidence), they may submit that information to the Title IX Coordinator.
- B. If the Title IX Coordinator determines that the submitted information should be reviewed, and the information was not available for the party to present during the investigation, the case may be re-opened.
- C. The Title IX Coordinator will inform the party(ies) of any new information. These parties will have the opportunity to respond to this information, and the Title IX Coordinator will consider the response(s) in deciding whether to reopen the investigation.
- D. If the Title IX Coordinator decides to reopen the investigation, the process will resume at Step Four (Section 15.4) above.

15.7. Step Seven: Grounds for Appeal Following an EOS Finding

- A. **Filing an Appeal**
 - 1. An appeal of EOS' finding(s) must be submitted in writing to the Title IX Coordinator within five (5) business days of receiving the finding(s).
 - 2. The Complainant and the Respondent(s) both have the right to appeal a finding for any error or procedural defect occurring during the investigation that could have significantly impacted the finding.

3. An appeal is not a new investigation of the complaint.
4. A non-appealing party does not have to participate.
5. If an appeal is filed in accordance with this Section, the appeal will automatically be presented to the University's Equal Opportunity Services Hearing Board ("Board") by the Title IX Coordinator.
6. The appellant may withdraw an appeal by submitting a request in writing to the Title IX Coordinator prior to the scheduled start of the hearing. A withdrawn appeal will conclude the matter.

B. Composition of the Board

1. Members of the Board are selected from recommendations from the university's Faculty Senate, Staff Council, and Student Affairs departments/offices, who shall each recommend at least five (5) individuals to the university's President. The President shall then select a Board of eight (8) with representation from each group recommended. Except for the first Board, members shall serve staggered terms of three (3) years.
2. If a conflict of interest arises for any of the Board members, the Title IX Coordinator will make a recommendation to the Board Chair to reduce or eliminate the conflict of interest.
3. Upon the Board's receipt of the appeal, a poll will be taken of the Board members by the Title IX Coordinator to identify four (4) members to hear the appeal and compose the Hearing Panel (three (3) members of the Hearing Panel will serve as voting members and one (1) will serve as an alternate, non-voting member).

C. Responsibilities of the Hearing Panel/Non-Affiliated Hearing Officer

1. If the appeal concerns Sexual Assault, the appealing party may waive their right to a hearing before the Hearing Panel and have their appeal heard by an individual hearing officer not affiliated with the University ("Non-affiliated Hearing Officer"). To waive their right to a Hearing Panel, the appealing party must submit written notice to the Title IX Coordinator within five (5) business days of receiving EOS' finding(s).
2. The Hearing Panel/Non-affiliated Hearing Officer will make decisions using a preponderance of the evidence standard.
3. The role of the Hearing Panel/Non-affiliated Hearing Officer is to recommend that the Appropriate Administrator accept, remand, or reject EOS' finding(s).
4. The Hearing Panel/Non-affiliated Hearing Officer can only recommend remanding EOS' finding(s) if:

- a. an error or procedural defect occurred during the investigation that could have significantly impacted its finding(s), or
 - b. further EOS investigation is warranted for any other material reason.
5. The Hearing Panel/Non-affiliated Hearing Officer can only recommend rejecting EOS's finding(s) if
- a. the weight of the evidence does not support or is contrary to EOS' finding(s), or
 - b. an error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.
6. While the Hearing Panel/Non-affiliated Hearing Officer will have the opportunity to review any evidence presented on appeal, their role is not to reinvestigate the original complaint or to review allegations that would otherwise constitute a new complaint under this Policy or any other University policy.

D. Preparing for a Hearing

1. Absent extenuating circumstances, the Title IX Coordinator will schedule a hearing to be held within fifteen (15) business days from the filing of the appeal.
2. Once the hearing is scheduled, requests to reschedule the hearing must be submitted in writing to the Title IX Coordinator and will be considered by the Hearing Panel/Non-affiliated Hearing Officer and the Title IX Coordinator.
3. The Complainant and Respondent(s) will be notified of the composition of the Hearing Panel or the identity of Non-affiliated Hearing Officer for their hearing. Within five (5) business days of this notification, the Complainant and Respondent(s) have the opportunity to object to a panel member or the Non-affiliated Hearing Officer for cause. The objection should be made in writing. The Title IX Coordinator, in consultation with the members of the panel, will consider any objection and replace the panel member or the Non-affiliated Hearing Officer if appropriate.
4. Both parties may bring an advisor of their choosing, consistent with the provisions of Section 14 of this policy. This advisor may be an attorney, provided by the party and at no cost to the University.
5. No later than five (5) business days prior to the hearing, all materials that will be used at the hearing must be submitted to the Title IX Coordinator or their designee, who will forward the

materials to the Hearing Panel/Non-affiliated Hearing Officer and will simultaneously make available for inspection or provide the materials to both parties. The materials must include:

- a. All documents and other tangible evidence that will be used as evidence during the hearing.
 - b. The names of any witnesses and a brief summary concerning the subject matter of the witness' expected testimony.
 - c. The name of any advisor to be in attendance at the hearing and whether that person is an attorney.
6. No advisor, witness, or document, or tangible evidence will be permitted at the hearing unless such information was timely submitted.
 7. No new information as defined by Section 15.6 will be presented to the Hearing Panel/Non-affiliated Hearing Officer before or during the hearing.
 8. It is the responsibility of the party wanting to present a witness to secure that witness.

15.8. Step Eight: Hearing

- A. Prior to the beginning of a hearing, the members of a Hearing Panel will select a Chairperson for the hearing.
- B. The general course of the hearing procedure will be as follows, subject to the discretion of the Panel Chairperson/Non-affiliated Hearing Officer:
 1. The Panel Chairperson/Non-affiliated Hearing Officer will convene the hearing, introduce the individuals present, give a brief description of the process and, invite questions about the process, and allow the parties the opportunity to present a brief opening statement;
 2. The appellant shall present their evidence (including calling and questioning their own witnesses) to the Panel/Non-affiliated Hearing Officer. If the other party participates, they shall have the same opportunity to present their evidence;
 3. EOS shall present their documentation related to the finding(s) to the Panel/Non-affiliated Hearing Officer;
 4. The Panel Chairperson/Non-affiliated Hearing Officer will allow the parties the opportunity to present a brief closing statement before concluding the hearing.
- C. During the hearing, the Panel Chairperson/Non-affiliated Hearing Officer may impose the following guidelines:

1. The Panel Chairperson/Non-affiliated Hearing Officer may impose reasonable time limits on any stage of the hearing.
 2. The Panel Chairperson/Non-affiliated Hearing Officer may also determine the relevance of, and place restrictions on, any witness or information presented.
- D. The Panel Chairperson and/or Panel/Non-affiliated Hearing Officer may question any individual at any time during the hearing.
- E. The parties may question their own witnesses, but they cannot directly question each other or the any other party's witnesses.
- F. The parties may request that the Panel chairperson/Non-affiliated Hearing Officer ask questions of another party or their witnesses by submitting proposed questions to the Panel chairperson in writing either prior to, or during, the hearing.
- G. The Panel Chairperson/Non-affiliated Hearing Officer may determine which questions are relevant, and the Panel Chairperson/Non-affiliated Hearing Officer has the discretion to revise a question or to decline to ask the question.
- H. An audio recording of the hearing will be kept for the use of the Panel/Non-Affiliated Hearing Officer and for any appeal.
- I. In cases where an appellant refuses to participate in the hearing, the Panel/Non-affiliated Hearing Officer will convene and make a decision based on the evidence and testimony available to the Panel/Non-affiliated Hearing Officer.
- J. This hearing process is an internal University process and not a formal courtroom process in which rules of evidence and courtroom procedures apply.
- K. Advisors may attend the hearing and sit with their advisee during the hearing, communicate quietly orally and/or in writing with their advisee during the hearing, and may respond to a direct question from the Panel/Non-affiliated Hearing Officer.
- L. An advisor will not be permitted to speak on behalf of the advisee, make an oral presentation, including an opening or closing argument, or to question witnesses, the EOS representative, or the Panel/Non-affiliated Hearing Officer during the hearing.
- M. If the Panel/Non-affiliated Hearing Officer determines it is necessary or advisable, alternative testimony options will be available such as allowing a witness to appear via other virtual means (e.g., via telephone).

15.9. Step Nine: Panel/Non-Affiliated Hearing Officer Decision

- A. If a Hearing Panel is utilized,

1. After the hearing has concluded, the three voting members of the Panel will deliberate in private.
 2. The Panel's decision as described in Section 15.7.C.2 will be by majority vote.
- B. If a Non-Affiliated Hearing Officer is utilized, they will make their decision alone.
- C. The Panel/Non-affiliated Hearing Officer will communicate its decision by completing the Hearing Decision Form and forwarding it to the Title IX Coordinator within three (3) business days of the hearing. If the decision is to remand the case to EOS to correct an investigative error(s), the Panel/Non-affiliated Hearing Officer will indicate the error(s) to be corrected.
- D. The Title IX Coordinator will then provide a copy of the decision simultaneously to all parties involved in the complaint.
- E. If the case is remanded to EOS to correct an investigative error, EOS will investigate and submit an Amended Report of Finding(s) which includes the actions taken to correct the investigative error to the same Panel/Nonaffiliated Hearing Officer for review. Once the hearing is scheduled, the process will then restart at Step 15.7.D.
- F. At the second hearing, testimony will begin with EOS' presentation, and all parties will be given the opportunity to respond to the new information provided by EOS, ask questions of EOS, and present any relevant witnesses and/or information.
- G. If the Panel accepts or rejects EOS' finding(s), any party or EOS may appeal the decision of the Panel/Non-affiliated Hearing Officer to the Appropriate Administrator.
- H. Any appeal must be filed in writing within five (5) business days of the Panel/Non-affiliated Hearing Officer's decision. If no appeal is filed by the deadline, the Panel/Non-affiliated Hearing Officer's recommendation(s) become final.

15.10. Step Ten: Final Appeal to Appropriate Administrator

- A. The role of the Appropriate Administrator is to accept, reject, or remand the Panel/Non-affiliated Hearing Officer's recommendation(s).
- B. The Appropriate Administrator can remand the case back to EOS' if they find:
1. an error or procedural defect occurred during the investigation that could have significantly impacted EOS' finding(s), or
 2. further EOS investigation is warranted for any other material reason.

- C. The Appropriate Administrator can reject EOS' finding(s) if they find:
 - 1. the weight of the evidence does not support or is contrary to EOS' finding(s), or
 - 2. an error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.
- D. The Appropriate Administrator can remand the case back to the Panel/Non-affiliated Hearing Officer if they find an error or procedural defect occurred during the hearing that could have significantly impacted the Panel/Non-affiliated Hearing Officer's recommendation(s), or which caused harm to the appellant or appellee.
- E. If the Appropriate Administrator accepts or rejects the Panel/Nonaffiliated Hearing Officer's recommendation(s), the decision becomes final.
- F. The Appropriate Administrator will review the record on appeal which may include the case file, appeal documentation, and hearing recording only, and will render a decision within fifteen (15) business days from the date that the appeal is filed.
- G. If the Appropriate Administrator extends the fifteen (15) day deadline, they must provide an explanation to the parties, EOS, and the Title IX Coordinator in writing by that deadline and every ten (10) business days thereafter.

15.11. Step Eleven: Sanctions and Remedies

- A. If there is a finding of a violation of this Policy, and any appeal of the finding has been exhausted, EOS will recommend that appropriate university action be taken, and any sanction imposed on the Respondent(s) will be determined by and implemented by the appropriate administrator after consultation with the Title IX Coordinator.
 - 1. If there is a finding of a violation of this Policy against a faculty member, any sanctions imposed on the faculty member will be determined by and implemented by the appropriate administrator after consultation with the Title IX Coordinator and consistent with the university's faculty handbook/manual.
 - 2. If there is a finding of a violation of this Policy against a nonfaculty University employee, any sanction imposed on the employee will be determined by and implemented by the appropriate administrator after consultation with the Title IX Coordinator and consistent with the university's policies and procedures related to employee discipline.
 - 3. If there is a finding of a violation of this Policy against a student, any sanction imposed on the student will be determined by and imposed by the Dean of Students' Office or its equivalent after

consultation with the Title IX Coordinator and consistent with the university's policies and procedures related to student conduct/discipline.

B. The sanctions for committing an act of Sexual Misconduct will be commensurate with the offense and may include, but are not limited to, the following:

1. Probation (including disciplinary probation)
2. Temporary or permanent ban from campus locations (such as residence hall communities)
3. Educational programs such as state-certified batterer's intervention
4. Ban from participating in campus organizations or activities
5. Disqualification from employment or student leadership positions
6. Withholding of transcripts, grades, diploma, or degree
7. Partial or full criminal trespass
8. Suspension from employment and/or enrollment
9. Revocation of admission and/or degree
10. Termination of employment
11. Expulsion
12. If a student is issued a sanction that makes them ineligible to reenroll in the University, the University will include on the student's transcript a notation stating that the student is ineligible to reenroll in the University for a reason other than an academic or financial reason.

On request by the student, the University may remove from a student's transcript a notation required if: the student is eligible to reenroll in the University; or the University determines that good cause exists to remove the notation.

13. In accordance with Texas law, the University must terminate an employee who is found to have knowingly failed to make a report of sexual harassment, sexual assault, dating violence or stalking when the Responsible Employee was required to do so or knowingly made a false report of sexual harassment, sexual assault, dating violence or stalking with intent to harm or deceive. Knowingly failing to make a report and knowingly making a false report are criminal offenses under Texas law.

- C. If a party is dissatisfied with a sanction determined by the appropriate administrator under Section 15.11, they may appeal the sanction as follows:
1. Any appeal to the sanction against a faculty member must be addressed through the university's faculty handbook/manual;
 2. Any appeal to the sanction against a non-faculty University employee must be addressed through the university's policies and procedures related to employee grievances;
 3. Any appeal to the sanction against a student must be addressed through the appeal process in the university's Student Code of Conduct or its equivalent.

D. Remedies - Regardless of the finding(s), and in addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s) to resolve complaints of Sexual Misconduct, prevent any recurrence and, as appropriate, remedy any effects. These actions may include, but are not limited to the following:

1. Ensuring the Complainant and Respondent do not share classes, working environments, or extracurricular activities;
2. Making modifications to the on-campus living arrangements of a Respondent or Complainant (if the Complainant requests to be moved);
3. Providing comprehensive, holistic victim services including medical, counseling, and academic support services such as tutoring;
4. Determining whether Sexual Misconduct adversely affected the Complainant's University standing;
5. In conjunction with University leaders, conducting a University climate check to assess the effectiveness of efforts to ensure that the University is free from Sexual Misconduct, and using that information to inform future proactive steps that the University will take;
6. Providing targeted group training;
7. Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate Sexual Misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the Complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the

Complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the Complainant declined as an interim measure.

15.12. Step Twelve: Notification of Outcomes

- A. The Title IX Coordinator and/or EOS will simultaneously notify the Complainant and the Respondent(s) in writing of the outcome of the following stages of the process:
 - 1. The initial finding(s), including a rationale
 - 2. The procedures to appeal a finding
 - 3. The outcome of any appeal, including any changes to the finding(s)
 - 4. Any interim sanctions imposed
 - 5. Any changes to interim sanctions
 - 6. The final outcome of the complaint
 - 7. Any imposed sanctions, including a rationale
 - 8. When the outcome is final
 - 9. Changes to sanctions related to the party once the outcome is finalized
- B. These notifications may be combined if they occur at the same time.
- C. In the case of a complaint alleging Dating or Domestic Violence, Non-consensual Sexual Contact, Sexual Assault, or Stalking, both parties will be notified of all imposed sanctions.
- D. In the case of a complaint alleging Sexual Harassment, Sexual Exploitation, or Sexual Intimidation, the Complainant will be notified of any sanctions that directly relate to the Complainant.
- E. The university will provide information regarding remedies available such as those discussed in Section 12. If a hostile environment was found to exist, the university will notify the Complainant of any additional steps the University has taken to eliminate the hostile environment and to prevent recurrence.
- F. On request by another postsecondary educational institution, the University will provide to the requesting institution information relating to a determination that a University student violated the Sexual Misconduct Policy by committing sexual harassment, sexual assault, dating violence, or stalking.

16. SPECIAL PROVISIONS

16.1. Immunity

- A. To encourage reporting, the University will not take any disciplinary action against a student enrolled at the University who in good faith reports being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation under the University's Student Code of Conduct for conduct by the student occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the University's disciplinary process regarding the incident, if any. The University may investigate to determine whether a report of an incident of sexual harassment, sexual assault, dating violence, or stalking was made in good faith.
- B. A person employed by or enrolled in the University acting in good faith who reports or assists in the investigation of a report of an incident of alleged Sexual Misconduct or who testifies or otherwise participates in the Sexual Misconduct complaint process will not be subjected to any disciplinary action by the University for any violation by the person of the University's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. Decisions regarding immunity are made by the Title IX Coordinator in conjunction with the appropriate sanctioning body. A determination that a student is entitled to amnesty is final and may not be revoked.
- C. Immunity, as described in this section does not apply to individuals who participate or assist in the reported incident of alleged Sexual Misconduct.

16.2. Allegations Involving University-Affiliated Organizations

- A. If a report is made alleging that a University-Affiliated organization has violated this Policy, EOS will make a referral to the appropriate administrative department and/or adjudicative body over that organization to ensure a timely, equitable process to determine if an Organization violated relevant University policies.
- B. EOS will work in partnership with the appropriate adjudicative body should there be concurrent investigations involving individuals and organizations, including, but not limited to, sharing information with appropriate University administrators who have a legitimate need to know.
- C. If a report is made involving an organization, EOS will seek to identify any individuals who may be involved. EOS will, in collaboration with the Complainant whenever possible, determine whether a formal complaint under this Policy will be filed against any identified individuals.

16.3. Non-Participating Complainants

- A. Non-participating complainants, individuals who decline to serve as a Complainant as per Section 15, will maintain certain rights as per this Policy.

- B. When the University serves as a Complainant, it will work with the non-participating complainants to the extent they would like to participate.
- C. Non-participating complainants do not have appeal rights as per this Policy.
- D. Non-participating complainants receive the same notifications as the Complainant and Respondent as outlined in Section 15.12 of this Policy, unless they request otherwise.
- E. Non-participating complainants always maintain the right to reasonable interim measures as outlined in Sections 12 and 15.2 of this Policy.

16.4. Additional Interventions

- A. When a report is received alleging a violation of this Policy, the University will take appropriate steps to assess whether additional actions, beyond a formal investigation and possible disciplinary sanctions, are appropriate.
- B. These actions may be implemented regardless of whether a formal complaint is filed and regardless of whether a finding of a violation is made.
- C. Actions may respond to the specific needs of impacted persons and/or may address the needs of the University community.
- D. Actions may include extending interim measures provided to impacted persons such as those listed in Sections 12 and 15.2 or new actions taken to respond to immediate and long-term concerns regarding personal safety, academic success, and emotional well-being.
- E. Actions to address the needs of the University community may include, but are not limited to, training (both targeted training and campus-wide programs), campus safety assessments, campus climate surveys, and evaluation of policies and procedures.

16.5. Reports Outside of University Jurisdiction

If the University is notified that a member of the University community has reported an incident of Sexual Misconduct, but the University does not have jurisdiction to handle the case as defined in Section 3, the University will still take reasonable steps to ensure the individual's safety while on campus and to offer the individual information about resources both on campus and in the community.

16.6. Training

- A. Investigator(s) will receive training at least annually on the issues related to Sexual Misconduct and how to conduct the processes outlined in this Policy while being both trauma-informed and impartial while protecting the safety of Complainants and promoting accountability.

- B. Members of the Equal Opportunity Services Hearing Board will receive training at least annually on the issues related to Sexual Misconduct. These individuals will also receive training regarding the role of EOS to enforce this Policy, best practices for hearings and hearing panelists, and their role in ensuring and promoting safety, due process, and accountability.
- C. The University will provide training for all incoming students and new employees that increase their knowledge about this Policy, their rights, and resources, as well as strategies to prevent violence, promote safety, and reduce perpetration. Employees will receive initial mandatory training within thirty (30) days after their hire date and supplemental training every two (2) years.
- D. The University will provide on-going prevention and awareness campaigns for students and employees that will increase their knowledge about this Policy, their rights and resources, as well as strategies to prevent violence, promote safety, and reduce perpetration.

17. ADMINISTRATIVE REPORTING

17.1. Administrative Reporting: Not less than once every three months, the Title IX Coordinator of the University shall submit to the University's chief executive officer a written report on the reports received for the institution's reporting period. The report shall include the following information: the investigation of reports; the disposition, if any, of any disciplinary processes arising from reports; and the reports for which the institution determined not to initiate a disciplinary process, if any.

- A. The Title IX Coordinator will immediately report to the University's chief executive officer any incident in which the Title IX Coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

17.2 At least once annually during either the fall or spring semester the chief executive officer of the University shall submit to the University's Board of Directors and post on the University's website a report concerning the reports received from the Title IX Coordinator.

18. COMPLIANCE

18.1. The chief executive officer of the University shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Texas Education Code Subchapter E-2 (Sections 51.251-51.260).

19. REVIEW AND RESPONSIBILITY

Responsible Party: Vice Chancellor for Legal Affairs and General Counsel

Review: Every two years

20. APPROVAL

Approved: Dona H. Cornell
Vice Chancellor for Legal Affairs and General Counsel

 Renu Khator
Chancellor

Date: 11/18/19