



Policy Number and Chapter: 16.007 Equity and Diversity
Policy Title: Title IX Sexual Harassment

Policy Statement. It is the policy of the University of North Texas to maintain a safe and respectful work and educational environment that is free from sex discrimination and allows all individuals to fully participate in the benefits and privileges the University has to offer. Therefore, in accordance with Title IX, the University prohibits sexual harassment at its educational programs and activities. Sexual harassment, retaliation, and other conduct prohibited under this Policy will be subject to disciplinary action.

Application of Policy. This policy applies to all students, faculty, staff. It applies to conduct that occurs on University owned or controlled premises, in an education program or activity, including University sponsored events, buildings owned or controlled by student organizations officially recognized by the University or off campus under circumstances when the university exercises substantial control over both the respondent and the context in which the harassment occurs. Upon notice to the University Title IX coordinator or any UNT official who has authority to institute corrective measures, the University’s obligations under Title IX are triggered. This policy also applies regardless of the gender, gender identity, or sexual orientation of the parties.

The requirements under this policy shall control in the event of a conflict with other university policies, including but not limited to definitions, investigation, grievance and resolution processes. The Title IX Coordinator shall determine whether this policy applies, in accordance with federal and state law.

Definitions.

1. **Appellate Officer.** “Appellate Officer” means the University administrator designated to hear and render a decision on appeals filed under this policy.
2. **Complainant.** “Complainant” means an individual who is alleged to have been the subject of conduct prohibited under this policy regardless of whether the individual reports the conduct.
3. **Confidential Employee.** “Confidential employee” means a University employee who is designated by the University as a person with whom students may speak confidentially concerning sexual misconduct or who receives information regarding alleged sexual misconduct under circumstances that render the employee's communications confidential or privileged under other law. A confidential employee is obligated to disclose reports of sexual harassment, sexual assault, dating violence and stalking as required under this policy based on the requirement of the employee’s professional licensure and the nature of their official responsibilities with the University. Confidential Employee, as defined in this policy, includes but is not limited to, licensed professional mental health counselors and health care professionals working in those capacities for the University and the employees they supervise and attorneys and other employees in the UNT Student Legal Services office and UNT System Office of General Counsel. Faculty and staff employees who are licensed mental health workers, licensed medical workers, or licensed attorneys but who are not employed in that capacity

by the University, such as faculty members in psychology, social work, nursing, etc., are not Confidential Employees under this policy. Staff members who are employed as Confidential Employees but become aware of alleged sexual misconduct while operating outside the confidential aspect of their work (e.g., a physician in the Student Health and Wellness Center who witnesses sexual harassment between two colleagues who are not patients) are not Confidential Employees under this policy with respect to that particular incident.

4. Consent. “Consent” means words or actions that show an active, knowing and voluntary agreement to engage in each instance of sexual activity. Consent cannot be obtained by force, coercion, manipulation, threats, or when an individual administers any substance to another person, without the person’s knowledge, that intentionally impairs the ability of the person to voluntarily consent. Consent is absent when the sexual activity in question exceeds the scope of previously given consent. Consent may be revoked at any time.
5. Dating Violence. “Dating Violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.
6. Day. “Day” means Monday through Friday during regular University business hours (8:00 a.m. to 5:00 p.m.).
7. Domestic Violence. “Domestic Violence” means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
8. Employee. “Employee” means an individual who is employed part-time, full-time, or in a temporary capacity as faculty or staff, or who is required to be a student as a condition of employment.
9. Good Faith. “Good Faith” means a reasonable belief that the reported conduct was prohibited under this policy. Good faith is based on the reporting individual’s education, training, and experience.
10. Hearing Officer. “Hearing Officer” means one of three decision-makers in a live hearing. The Hearing Officer will manage the questioning of parties and witnesses in the hearing, and will issue the written determination of responsibility.
11. Hearing Panel. “Hearing Panel” means a group of three individuals, including a Hearing Officer, convened for the purpose of a live hearing after an investigation of sexual harassment.
12. Hearing Panelist. “Hearing Panelist” means one of three members of a hearing panel.

13. Incapacitation. “Incapacitation” means that a person lacks the ability to voluntarily agree to sexual activity because the person is asleep, unconscious, under the influence of an anesthetizing or intoxicating substance such that the person does not have control over their body, or is otherwise unaware that sexual activity is occurring. Incapacitation is not the same as intoxication. When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drug. Alcohol and other drugs impact each individual differently, and determining whether an individual is incapacitated requires an individualized determination. A party who engages in sexual conduct with a person who is incapacitated under circumstances in which a reasonable sober person in similar circumstances would have known the person to be incapacitated is responsible for sexual misconduct.
14. Live Hearing. “Live Hearing” (or “Hearing”) means a proceeding where the Complainant, Respondent and all participants are physically present in the same geographic location, or, at the University’s discretion, where the Complainant, Respondent, witnesses and other participants may appear virtually with technology that allows participants simultaneously to see and hear the proceeding.
15. Participants. “Participants” means individuals who are involved substantively in a hearing conducted under this policy, specifically the complainant, respondent, advisors, investigator(s), hearing officer, hearing panelists, witnesses and other persons necessary to conduct the proceeding in accordance to the Title IX regulations.
16. Party or Parties. “Party” or “Parties” means the complainant, respondent and their respective advisors singularly or collectively, as applicable.
17. Preponderance of the Evidence. “Preponderance of the Evidence” means the amount of information necessary to establish whether an alleged policy violation occurred (*i.e.*, more likely true than not true). Preponderance of the evidence is also referred to as the greater weight of the evidence. The burden of proof always rests with the University.
18. Respondent. “Respondent” means an individual identified as allegedly having engaged in conduct prohibited under this policy regardless of whether a formal complaint is made.
19. Retaliation. “Retaliation” means any adverse action, treatment, or condition taken because of an individual’s participation in a protected activity (*i.e.* made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy), including an act intended to intimidate, threaten, coerce, or discriminate that is likely to interfere with or dissuade a reasonable person from opposing discriminatory or harassing practices, filing a sexual harassment complaint of, participating in an investigation regarding sexual harassment, or otherwise affecting any right or privilege secured by Title IX or this policy, or because the individual has. Retaliation also includes filing a complaint or other action against an individual for alleged violation of University policy unrelated to sexual harassment but arising out of the same facts or circumstances as a report of sex discrimination or sexual harassment, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this policy.
20. Sexual Assault. “Sexual Assault” means an offense that meets the definition of rape,

fondling, incest, or statutory rape.

- a. Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- b. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

21. Sexual Coercion. "Sexual Coercion" means the use of manipulation or threat to force someone to engage in a sexual act.

22. Sexual Exploitation. "Sexual Exploitation" means taking non-consensual or abusive sexual advantage of an individual for the benefit or advantage of anyone other than the person being exploited. Examples of sexual exploitation include, but are not limited to, non-consensual video or audio-taping of sexual activity; undetected viewing of another's sexual activity or other types of sex-based voyeurism; the intentional removal of a condom or other prophylactic barrier during sexual activity without the consent of a sexual partner.

23. Sexual Harassment. "Sexual Harassment" means Conduct on the basis of sex that satisfies one or more of the following:

- a. Quid pro quo: An employee of the institution conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual 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 the University's education program or activity; or
- c. "Sexual assault," "dating violence," "domestic violence," or "stalking" as defined in this Policy.

Subsections (a) and (c) in this definition are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such conduct is sufficiently serious to deprive a person of equal access. Therefore, any instance of quid pro quo sexual harassment and any instance of sexual assault, dating violence, domestic violence, and stalking are considered sexual harassment under this Policy.

24. Stalking. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress. "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

“Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

“Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

25. Student. “Student” means an individual who is registered or enrolled in one or more courses for credit at the University.
26. Survivor Advocate. “Survivor Advocate” means an individual employed by the University to provide advocacy services to survivors of sexual misconduct, relationship violence and stalking, including information about on and off campus resources, counseling services, health and safety programs, academic and on-campus housing options, protective orders, crime victim compensation, and other resources. The Survivor Advocate is not a confidential employee.
27. Title IX Coordinator. “Title IX Coordinator” means a University of North Texas employee designated by the President to implement, monitor, and enforce the university’s Title IX program. In this policy, reference to the Title IX Coordinator also means a Deputy Title IX Coordinator or the Coordinator’s designee. The Title IX Coordinator is located in the Office of Equal Opportunity.

Procedures for reporting alleged sexual misconduct.

- I. Reporting Sexual Harassment and Other Sexual Misconduct
 - A. Call 911 to report imminent danger of harm or to report criminal activity. It is important that victims of sexual harassment, sexual assault, dating violence, domestic violence, or stalking go to a hospital for treatment and preservation of evidence, if applicable, immediately after the incident.
 - B. Sexual harassment and other forms of sexual misconduct may be reported to the University via the University website report.unt.edu, including anonymously, or to a Confidential Employee. A student who wishes to report sexual harassment and other sexual misconduct may report to the Dean of Students, the Title IX Coordinator, or a Deputy Title IX Coordinator.
 - C. An individual who believes they have been subjected to sexual harassment or other sexual misconduct, should immediately report the conduct to the Title IX Coordinator.
 - D. Employees must report sexual harassment and other sexual misconduct as set out below.
- II. Duty to Report
 - A. Employees who, in the course of performing their authorized duties, witness or receive information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment or other sexual misconduct and is alleged to have been committed by or against a person who was a student enrolled at or an employee of UNT at the time of the incident shall promptly report the incident to the Title IX Coordinator or a Deputy Title IX Coordinator. The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an

alleged victim has expressed a desire for confidentiality in reporting the incident. Students and other individuals, including visitors, are strongly encouraged to report sexual harassment and other sexual misconduct to the Title IX Coordinator in the Office of Equal Opportunity or a Deputy Title IX Coordinator.

B. Exceptions to Duty to Report.

1. Confidential Employees, as defined in this policy, are obligated to report sexual harassment and other sexual misconduct to the Title IX Coordinator or a Deputy Title IX Coordinator. When reporting, these individuals shall state only the type of incident reported and shall not include other information that would violate a student's expectation of privacy.
2. A person is not required to make a report under this section concerning an incident in which the person was a victim of sexual harassment and other sexual misconduct.
3. A person is not required to make a report pursuant to this policy concerning an incident of which the person received information due to a disclosure made at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by the University or by a student organization affiliated with the University.

C. Ramifications of failure to report.

1. The University will terminate the employment of an employee whom the institution determines in accordance with University policy to have knowingly failed to report certain types of sexual misconduct as required in this policy (*i.e.*, the employee is required to make a report of sexual assault, sexual harassment, dating violence, or stalking and knowingly fails to do so) or with the intent to harm or deceive, knowingly makes a report of sexual harassment or other sexual misconduct that is false.
2. The University may discipline an employee who fails to report other forms of sexual misconduct (*i.e.*, sexual coercion, sexual exploitation, and domestic violence).

III. Protection against Retaliation

Retaliation against any person who reports or encourages another to report any behavior prohibited by this policy; who participates in an investigation conducted under this policy; or who seeks assistance or guidance from any University department or external official or organization authorized to remediate conduct prohibited under this policy. This protection against retaliation does not apply to a student or employee who:

- A. Reports an incident of sexual misconduct under this policy that was perpetrated by that person or the person assisted in the sexual misconduct; or
- B. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that person perpetrated an incident prohibited under this policy.

IV. Confidentiality

- A. Protection of Non-Confidential Information. Information may be protected from

disclosure as permitted by section 51.971 of the Texas Education Code when it is collected or produced as part of an investigation conducted under this policy and disclosing the information would interfere with an ongoing investigation, or it is collected or produced by a University official for the purpose of reviewing a compliance process.

- B. Authorized Disclosure of Alleged Victim's Identity. The identity of an alleged victim of sexual harassment or other sexual misconduct, may be disclosed with the written and signed consent of the alleged victim or when the information is released to the following:
 - 1. persons employed by or under contract with the university when necessary to conduct an investigation of the report or any related hearings;
 - 2. a law enforcement officer as necessary to conduct a criminal investigation of the report;
 - 3. a health care provider in an emergency situation, as determined necessary by the institution;
 - 4. the person or persons alleged to have perpetrated the incident, to the extent required by other law; or potential witnesses to the incident as necessary to conduct an investigation of the report.
- C. Authorized Disclosure of the Identity of other Individuals Involved in Reports of Sexual Harassment or Other Sexual Misconduct. The identity of an individual who reports sexual harassment or other sexual misconduct under this policy, who sought guidance from the University concerning such alleged conduct, or who participated in the University's investigation of alleged conduct prohibited under this policy; or the identity of a person who is alleged in a report made to the University to have engaged in conduct or assisted in the commission of conduct prohibited under this policy but found not responsible for such conduct after a University investigation, is confidential and not subject to disclosure under the Texas Public Information Act, and may be disclosed only to:
 - 1. university officials as necessary to conduct an investigation of the report;
 - 2. a law enforcement officer as necessary to conduct a criminal investigation of the report, or
 - 3. a health care provider in an emergency situation, as determined necessary by relevant University officials.

V. False or Bad Faith Reports

Any individual who makes a false report under this policy is subject to disciplinary action. A report is not false or made in bad faith simply because an investigation did not find sufficient evidence to substantiate the alleged violation.

VI. Rights of Victims of Alleged Sexual Harassment and Other Sexual Misconduct

- A. The right to report the incident to the University and to receive a prompt and equitable resolution of the report;
- B. The right to report or not report the alleged conduct to law enforcement if it constitutes a crime; and
- C. The right to be assisted by the University in reporting the alleged conduct to law enforcement if it constitutes a crime

VII. Protocol for Responding to Reports of Sexual Harassment, Including Interim Measures

- A. Reviewing Reports. The Title IX Coordinator will review all allegations of sexual harassment and other sexual misconduct. The Coordinator shall consult the Complainant, if the individual's identity is known, before recommending interim measures or before initiating an investigation. This consultation must include informing the Complainant that:
1. the Complainant may file a criminal complaint with law enforcement officials at any time;
 2. the University has an obligation to remediate sexual harassment and other sexual misconduct, and that an investigation may be conducted whether or not a criminal complaint is filed;
 3. the University can take measures to protect against continued sexual harassment or other sexual misconduct and retaliation;
 4. voluntary withdrawal of an allegation will not necessarily result in termination of an investigation; and
 5. the Complainant should contact the Title IX Coordinator if retaliation is suspected.

B. Interim or Supportive Measures

The University may take administrative action to protect or support the Complainant, the Respondent, and any other individual against prohibited conduct including retaliation, or to ensure the prompt and efficient completion of an investigation. Interim measures are not disciplinary in nature and must be consistent with other University policies. Interim measures may include but are not limited to administrative directives for no contact, housing reassignments, leaves of absence, modified schedules, campus security escorts, altered academic arrangements, and increased security.

C. Formal Complaints

To begin the Grievance Process, the Complainant must sign a Formal Complaint (requesting an investigation) and submit it to the Title IX Coordinator. The complaint must include a written statement setting out the known details of the alleged sexual harassment, including the following:

1. Complainant's name and contact information;
2. Respondent's name, if known;
3. Description of the alleged occurrence(s);
4. Date(s) and location(s) of the alleged occurrence(s);
5. Names of any witnesses to the alleged occurrence(s); and
6. The resolution sought.

The Complainant may submit any documents or other information that is related to the Formal Complaint.

The Title IX Coordinator may sign a Formal Complaint against a Respondent and initiate an investigation when in the best interest of the University community.

D. Formal Complaint Dismissals

1. **Mandatory Dismissal of Complaint.** The University, as required by Title IX, must dismiss a Formal Complaint or any allegations in the complaint, when the alleged conduct:
 - a. Does not meet the definition of sexual harassment as defined in this policy;
 - b. Did not occur in a UNT educational program or activity; or
 - c. Did not occur against a person in the United States.
2. **Discretionary Dismissal of Complaint.** The University may dismiss a Formal Complaint or allegation made under this Policy:
 - a. upon the Complainant's written request and delivery of the request to the Title IX Coordinator;
 - b. when the Respondent is an employee and no longer employed by the University at the time the Formal Complaint is filed; or
 - c. when specific circumstances prevent the University from gathering evidence sufficient to reach a determination concerning the complaint or an allegation in the complaint.
3. **Other Investigation.** The University may resolve an allegation of sexual harassment dismissed under this provision under other University policies, including but not limited to the prohibition of sexual misconduct policy (16.005) and the code of student conduct (07.012).
4. **Notice of Dismissal.** If the University dismisses a Formal Complaint, the University will notify the Complainant and Respondent in writing, including the reason(s) for the dismissal.
5. **Concurrent Criminal or Civil Proceedings.** The University, at its discretion, may proceed with or delay the investigation or Grievance Process temporarily due to concurrent criminal or civil proceedings on a case-by-case basis.

F. Written Notice of the Formal Complaint, and Notification of University Offices Offering Assistance.

1. After receiving a Formal Complaint, the Title IX Coordinator will provide the Complainant and Respondent written notice of the Formal Complaint and available University resources and assistance. The written notice will include the following:
 - a. A description of the Grievance Process, as outlined in this Policy;
 - b. Details about the alleged conduct, including the nature of the conduct, identity of the parties, and the date(s), time(s), and location(s) of alleged conduct as known by the University at the time of the Formal Complaint;
 - c. The potential policy violations being investigated;
 - d. A statement that the Respondent is presumed not responsible for the alleged conduct and that the determination regarding responsibility will be made at the conclusion of the Grievance Process;

- e. A statement that both individuals may have an advisor of their choice, who may be, but is not required to be, an attorney;
- f. A statement that both individuals may inspect and review all evidence gathered as part of any investigation;
- g. A statement that knowingly making false statements or knowingly submitting false information during the Grievance Process is prohibited and subject to disciplinary action; and
- h. Any other information the Title IX Coordinator believes is necessary for equitable resolution of the Formal Complaint.

G. Informal Resolution of Complaints

1. After the Respondent and Complainant have been provided a copy of the written notice of a Formal Complaint, both individuals may, in writing, voluntarily agree to resolve the complaint using the Informal Resolution process set out in this policy. Individuals may use the informal process at any point prior to the University reaching a determination regarding responsibility. The Informal Resolution entails the parties forgoing the Grievance Process (including the investigation and hearing, depending on when the parties agree to engage in an Informal Resolution). The Informal Resolution may include a mediation process, for example, and agreements reached by the individuals are binding and will result in permanent dismissal of the Formal Complaint. The University may enforce the agreement to the extent allowed by law.
2. At any point prior to agreeing to an Informal Resolution, each party has a right to withdraw from the Informal Resolution process and resume the Grievance Process with respect to the Formal Complaint.
3. The Informal Resolution process is not permitted in cases where:
 - a. The Formal Complaint alleges sexual assault;
 - b. The Formal Complaint alleges an employee sexually harassed a student; or
 - c. When the individuals previously participated in the Informal Resolution process and reached a mutual agreement that resolved the allegations in the Formal Complaint.
4. Informal Resolutions of a Formal Complaint will be concluded within 45 days of written notice to the University that both parties wish to proceed with the informal process. Notice that the parties wish to proceed with an Informal Resolution process will “pause” the counting of the timeframe to conclude the formal Grievance Process. Should the Informal Resolution process fail, the University will proceed with the formal process.
5. No recording of the Informal Resolution process will be made and statements made during this process may not be used or considered in any way in the formal Grievance Process, including by the hearing and appellate officers.
6. Informal Resolution Documentation. Any final resolution reached pursuant to the Informal Resolution process will be documented and maintained for seven years.

(See Section VII. N. below for additional information on Grievance Process documentation).

H. Investigating Formal Complaints

1. Collection of Evidence.

- a. The Investigator will provide written notice to the Complainant, Respondent or other individuals who may have information about an allegation in the Formal Complaint when the person is invited or expected to participate in the process. The notice must inform the individual of the date, time, location, participants, and purpose of the meeting or other proceedings.
- b. After the University provides written notice of a Formal Complaint, the Respondent will have ten (10) days to respond in writing and schedule an interview with the investigator.
- c. The Respondent and Complainant may present any information and evidence that is relevant to the Formal Complaint, and may have an Advisor of their choice attend any related interview, meeting, or proceeding in the Grievance Process. The individuals must inform the Investigator, in writing, of the name of their Advisor and whether the University may release information concerning the Formal Grievance process. Advisors are not permitted to actively participate in meetings or proceedings in the Grievance Process, unless explicitly outlined in this Policy. The individuals may provide the names of any fact or expert witnesses who may provide information related to the allegation(s), including a description of the information the witnesses may have, and provide the investigator any questions they would like asked of any potential witnesses or the other party.
- d. The Investigator is responsible for gathering evidence sufficient to reach a determination regarding responsibility, including interviewing available witnesses.
- e. The Investigator cannot access, consider, disclose, or otherwise use a Respondent's, Complainant's or witness's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University that individual's voluntary, written consent to consider the information.

2. Access to Evidence. Prior to the completion of the investigation report, the investigator must send the Respondent and Complainant, and their advisor as designated, access to the evidence obtained that is directly related to the allegations in the Formal Complaint, including inculpatory and exculpatory information and other evidence upon which the investigator does not intend to rely in reaching a determination regarding responsibility. The individuals will have 10 days to inspect, review, and respond to the evidence. Response to the evidence may be submitted verbally or in writing. The investigator will consider all timely responses.

3. Completed Investigation Report. The completed investigation report will outline

each of the allegations that if true would constitute prohibited conduct under this Policy, provide the timeline (*i.e.*, procedural steps) of the investigation, and fairly summarize relevant evidence, participant statements, and responses to questions. The investigator will provide a completed investigation report concurrently to the individuals and their advisors at least 10 days prior to the date of the scheduled hearing for review and a written response. A copy of the completed investigation report will be issued to the Title IX Coordinator, and to the Hearing Officer assigned for the hearing for distribution to the Hearing Panel.

- I. Standard of Evidence & Presumption of Non-Responsibility. The Respondent is presumed not to be responsible for the conduct alleged in the Formal Complaint and will not be determined to be responsible unless the preponderance of the evidence establishes the individual engaged in the conduct at the conclusion of the Grievance Process. The preponderance standard shall be used during all stages of the formal resolution process.

- J. Live Hearing – Determination of Responsibility
 1. Absent a dismissal of a Formal Complaint, the University will provide a Live Hearing, as outlined in this Policy, to resolve the allegations.
 2. Notice of the Hearing. The University will provide at least 10 days written notice to all participants of the hearing, including the date, time, location, names of all participants, purpose of the hearing, a statement of the allegation(s), and a summary of the evidence gathered.
 3. Advisor. Each party may have an advisor of their choice at the hearing. If a party does not have an advisor, the University will provide one at no cost to the party. Advisors are not permitted to actively participate in the hearing, except for asking relevant questions of the other party and any other witnesses.
 4. Access to Evidence. The Respondent and Complainant will be provided all evidence from the investigation and a copy of the completed investigation report at least 10 days prior to the hearing.
 5. Separate Rooms and Virtual Participation. The Complainant or Respondent may request a separate room during the hearing. The University will provide technology enabling the individuals to simultaneously see and hear the other participants throughout the proceeding.
 6. The hearing will be conducted by a panel consisting of three members: a Hearing Officer and two Hearing Panelists, selected by the Title IX Coordinator or a designee. Individuals with a general or specific conflict of interest or bias toward or against the Complainant, Respondent or witness will be disqualified from participating in the Hearing Panel. The Hearing Panel will objectively evaluate all evidence, both inculpatory and exculpatory, and determine the credibility of witnesses and evidence without bias toward the Complainant, Respondent, or any witness. The determination of responsibility or non-responsibility must be by majority vote of the members of the panel.
 7. Challenges to the Hearing Panelists. The Respondent and Complainant may challenge the fairness, impartiality or objectivity of any member assigned to serve

on the panel. The challenge must be submitted to the Title IX Coordinator, in writing, within five (5) days from the date of the hearing notice and state the reason(s) for the challenge. The Title IX Coordinator will decide whether to grant or deny the challenge and assign another panelist if the challenge is granted.

8. Hearing Officer Duties at the Hearing. The Hearing Officer will decide all questions and objections concerning procedural matters and evidence, including the relevance of exhibits and testimony. The Hearing Officer may call and question participants who testify at the hearing. The Hearing Officer may consult the UNT System Office of General Counsel concerning the hearing.
9. Each party may make an opening and a closing statement.
10. Questioning of the participants in the hearing: The Hearing Officer may ask questions during the hearing of any party or witness and may be the first person to ask questions of any party or witness. The Respondent and Complainant are not permitted to ask questions directly of the other party or any witnesses during the hearing. Each party's advisor will have an opportunity to ask relevant questions and follow-up questions of the other party and of any witnesses, including questions challenging credibility. Each advisor may question witnesses directly and orally at the hearing. The advisors may ask questions under the following procedure:
 - a. At the start of the hearing the advisors must submit a list of initial questions to the Hearing Officer. The Hearing Officer will determine whether the questions are relevant.
 - b. The advisor may ask the applicable participant the questions approved by the Hearing Officer and relevant follow up questions.
 - c. Before the participant answers a follow up question, the Hearing Officer will determine whether the question is relevant to the alleged conduct.
 - d. The Hearing Officer must explain any decision to exclude a question as not relevant.
11. Information that is Not Relevant.
 - a. Privileged Information. Information that is confidential under a legally recognized privilege, including attorney-client and medical information, is not relevant and will not be permitted at the Hearing or considered in making a determination of responsibility. The parties and witnesses are not required to disclose information protected under a legally recognized privilege and the parties may not ask any participant questions related to privileged information, unless the person waives the privilege in writing. Any waivers of a privilege must be submitted to the Hearing Officer before a party asks the witness questions related to the information.
 - b. Prior Sexual History. A Complainant's sexual predisposition or prior sexual behavior is not relevant except where questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct, or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove consent.

12. Not submitting to cross-examination. If a party or witness refuses to submit to any cross-examination questions, the Hearing Panel will not rely on any statement of that party or witness in making a determination of responsibility. The panel may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions at the hearing.
 13. Determination of Responsibility. The Hearing Panel will make a determination of responsibility on all allegations in the Formal Complaint. The Hearing Officer is responsible for preparing a written determination, which must include the following:
 - a. The allegations that potentially constitute sexual harassment;
 - b. A description of all of the procedural steps from receipt of the Formal Complaint through the determination regarding responsibility, including any notifications of the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - c. The findings of fact supporting the determination of responsibility;
 - d. The conclusion(s) regarding the application of the applicable university code of conduct or policy to the facts;
 - e. A statement of and rationale as to whether the Respondent is responsible for each allegation;
 - f. The disciplinary sanctions, if applicable;
 - g. The remedies, if applicable, designed to restore the Complainant's access to the education program or activity; and
 - h. The University's procedures and permissible grounds for the parties to appeal, when applicable.
 14. The Hearing Officer will send a copy of the written determination concurrently to the parties, in addition to the Dean of Students (for student Respondents); Provost (for faculty respondents) or divisional Vice President and Director of Human Resources (for employee Respondents), and the Title IX Coordinator.
 15. The hearing will be recorded in audio or audiovisual format and may be transcribed at the discretion of the University. The recording or transcript will be available for the parties to inspect and review, upon request.
- K. Obligation to Participate in Investigations under this Policy
1. Individuals are expected to be cooperative in investigations conducted under this policy, and any person who knowingly interferes with an investigation is subject to disciplinary sanctions. Interference with an investigation includes, but is not limited to:
 - a. attempting to coerce, compel, or prevent an individual from providing information related to the investigation;
 - b. removing, destroying, or altering information that relates to the investigation;
 - c. failing to produce university records that relate to the investigation; or
 - d. providing false or misleading information in the course of an investigation or encouraging others to do so.

2. Employees are required to participate in investigations and hearings conducted under this policy unless the employee is the alleged victim.
- L. Sanctions and Remedies. The following sanctions and remedies may be considered by the Hearing Panel in accordance with this Policy:
1. Possible Sanctions and Remedies for Student Respondents:
 - a. Educational training;
 - b. No shared classes or extra-curricular activities;
 - c. Disciplinary probation;
 - d. Withholding of grades, official transcript, and/or degree;
 - e. Bar against readmission, bar against enrollment, drop from one or more classes, and/or withdrawal from the University;
 - f. Suspension of rights and privileges, including but not limited to participation extracurricular activities, including intercollegiate athletics;
 - g. Denial of degree;
 - h. Suspension from the University for a specific period of time. Suspension is noted on the academic transcript with the term "Disciplinary Suspension." The notation can be removed upon the request of the student in accordance with the University's procedures when all conditions of the suspension are met;
 - i. Expulsion (permanent separation from the University). Expulsion creates a permanent notation on the student's academic transcript;
 - j. Revocation of degree and withdrawal of diploma; and
 - k. Other sanction(s) or remedies as deemed appropriate under the circumstances.
 2. Possible Sanctions and Remedies for Staff Respondents:
 - a. Written warning;
 - b. Written reprimand;
 - c. Job demotion or reassignment;
 - d. Suspension with or without pay for a specific period of time;
 - e. Termination;
 - f. Ineligible for rehire; and
 - g. Other sanction(s) or remedies as deemed appropriate under the circumstances
 3. Possible Sanctions and Remedies for Faculty Respondents:
 - a. Written warning;
 - b. Written reprimand;
 - c. Loss of rank;
 - d. Reassignment;
 - e. Suspension with or without pay for a specific period of time;
 - f. Termination;
 - g. Revocation of tenure
 - h. Ineligible for rehire; and
 - i. Other sanction(s) or remedies as deemed appropriate under the

circumstances

M. Appeals and Additional Processes Provided to Students and Employees.

1. Appeals. Either party may appeal the determination of responsibility or the decision to dismiss a Formal Complaint or any allegations in the Formal Complaint. The appeal must be submitted in writing within 10 days of notice of the written determination. An appeal may be based only on the following grounds:
 - a. A procedural irregularity occurred that affected the outcome of the matter;
 - b. New evidence that could affect the determination regarding responsibility was not available at the time the determination was made;
 - c. New evidence that could affect the outcome of a decision to dismiss the Formal Complaint or an allegation in the complaint was not available at the time the decision was made; or
 - d. The Title IX Coordinator, investigator(s), or Hearing Panelist had a conflict of interest or bias for or against the parties (general or specific) that affected the outcome of the matter.
2. The Appellate Officer must not be the same person as the Title IX Coordinator, investigator(s), or Hearing Officer in the Grievance Process. Both parties will be notified in writing when an appeal is filed and the appeal procedures will apply equally for both parties.
3. Any non-appealing party will have seven (7) days from the notification of an appeal to submit a written statement in support of the outcome. The decision-maker on the appeal will release a written decision within 28 days from the date of the appeal.
4. Appellate Officer will provide the parties a written decision within 28 days from the date of the appeal.

N. Grievance Process Documentation. The University (through the appropriate office) will retain all documentation related to the Grievance Process (outlined in Section VII of this Policy) for seven years, in accordance with state and federal records retention laws and University policy. All records related to the Grievance Process are confidential to the extent allowed by law.

O. Grievance Process Timeframe. The entire Grievance Process, including any appeal, will be completed in a reasonably prompt manner, determined by balancing principles of thoroughness and fundamental fairness with promptness. The University may extend the time to complete an investigation for good cause, including the absence of a party; the unavailability of a party's advisor or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. In such an instance, the University will provide written notice to the parties of the delay or extension and the reason(s) for the action. The time to complete the Formal Grievance Process will be extended by the length of time parties engage in the Informal Resolution process.

VIII. Emergency Removal and Employee Administrative Leave.

A. Emergency Removal. A student-Respondent may be removed from the University

on an emergency basis when the University determines the Respondent poses an immediate threat to the physical health or safety of an individual arising from an allegation of sexual harassment. The Respondent will be notified of removal, in writing, and given five (5) days to challenge the decision to the Title IX Coordinator. The challenge must include all reasons the Respondent believes removal is not warranted. The Title IX Coordinator or designee will provide a written response to the challenge within 72 hours of receipt. The response will uphold or overturn the decision for emergency removal.

- B. Employee Administrative Leave. An employee-Respondent may be placed on administrative leave pending resolution of a Formal Complaint, in accordance with university policy.
- C. Policy Dissemination, Annual Reporting and Notice. The University's Title IX General Policy Statement will be made available to all students, faculty, and staff employees online, in required publications, and in specified departments. This Policy will be made available to all University administrators, faculty, staff, and students online and in University student catalog(s) and in the employee policy manual. Periodic notices will be sent to University administrators, faculty, staff and students about this policy at the beginning of each fall and spring semester. The notice will include information about sexual harassment, retaliation, the Formal Complaint procedure, the Title IX Grievance Process, and available resources, such as support services, health, and mental health services. The notice will specify the right to file a Formal Complaint under this Policy and to file a police report to law enforcement, provide the Title IX Coordinator's contact information, and refer individuals to designated offices or officials for additional information.

IX. Education and Resources

- A. Training of Title IX Coordinators, Investigators, Hearing Officers and Appellate Officers. All Title IX Coordinators, Deputy Coordinators, Investigators, and those with authority over University Grievance Processes, and appeals shall receive training each academic year about applicable prohibited conduct, Grievance Processes, due process, and this policy. All training materials used to train Title IX-related personnel (*e.g.*, Title IX Coordinators, deputies, investigators, Hearing Officers, and Appellate Officers) will be made available on the University's website.
- B. Resources and Services. Resources and services for those involved in sexual harassment situations can be found at the Office of Equal Opportunity and the Survivor Advocate's Office.

X. Legal Implications

Any violation of this policy may result in sanctions imposed by the University or federal or state authorities, or legal action. In an effort to encourage reporting of sexual harassment and other sexual misconduct, the University will grant immunity from disciplinary action to students and employees who act in good faith in reporting a complaint or participating in an investigation or disciplinary process. This immunity does not extend to the person's own violations of this Policy.

References and Cross-references.

[UNT Policy 05.033 Staff Employee Discipline and Involuntary Termination Policy](#)

[UNT Policy 05.042, Grievance Policy](#)

[UNT Policy 06.025, Faculty Misconduct and Discipline](#)

[UNT Policy 07.012, Code of Student Conduct](#)

[UNT Policy 16.004, Prohibition of Discrimination, Harassment, and Retaliation](#)

[UNT Policy 16.005, Prohibition of Sexual Misconduct, including Sexual Harassment, Sexual Assault, Sexual Coercion, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, Failure to Report and Retaliation](#)

Title IX Regulation, 34 C.F.R. Part 106

Tex. Educ. Code §51.282, Policy On Sexual Harassment, Sexual Assault, Dating Violence, and Stalking

Tex. Educ. Code Subchapter E-2, §§51.251-51.259, Reporting Incidents of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking

Tex. Educ. Code Subchapter E-3, §§51.281-51.291, Sexual Harassment, Sexual Assault, Dating Violence, and Stalking

Tex. Educ. Code § 51.9363, Sexual Assault Policy

Tex. Educ. Code § 51.9365, Electronic Reporting Option for Certain Offenses

Tex. Educ. Code § 51.9366, Amnesty for Students Reporting Certain Incidents

Forms and Tools.

Title IX Coordinator Contact Information

[Survivor Advocate Contact Information](#)

[Office of Equal Opportunity Complaint Form](#)

Resolution Procedures for Complaints of Discrimination, Harassment, or Retaliation filed with the Office of Equal Opportunity

Revision History

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