

# Texas A&M University-Corpus Christi

## Student Sexual Misconduct Process

### Introduction

Texas A&M University-Corpus Christi (TAMUCC) is committed to ensuring an environment in which members of the University community, guests and visitors have the right to be free from sexual misconduct. When an allegation of sexual misconduct is brought to the attention of the University and an individual is found to have violated this policy, serious sanctions will be used as an effort to reasonably ensure that such actions are minimized and prevented whenever possible. These procedures have been developed to reaffirm these principles, to serve as complimentary function of the *Student Code of Conduct* and to provide recourse for those individuals whose rights have been violated. It is imperative that all students read through the *Student Code of Conduct*, which serves as the primary document regarding student misconduct. The code can be found online at [judicialaffairs.tamucc.edu](http://judicialaffairs.tamucc.edu). These procedures establish a mechanism for determining when the sexual misconduct policies have been violated.

Additionally, Title IX of the Higher Education Amendments of 1972 requires TAMUCC to:

- Ensure the campus environment and/or events are free from sexual harassment and sex/gender based violence
- Create and publicize to all employees and students a policy prohibiting sexual harassment and sex/gender based violence; and
- Establish complaint procedures

This procedure only applies to students that have allegedly engaged in sexual misconduct. All definitions, including that of the term 'student', that are described in the most recent version of the *Student Code of Conduct* are applicable for this policy. If a student is adversely affected by sexual misconduct perpetrated by a staff or faculty member, the student should utilize the procedures set forth in [TAMUS 08.01.01](#), Civil Rights Compliance.

At TAMUCC the Title IX Coordinator and Investigator is:

Mr. Samuel Ramirez, Director of Employee Relations, EEO, Training and Development  
(361) 825-2765, Corpus Christi Hall (CCH) 130

The Deputy Title IX Coordinator and Investigator is:

Ms. Rosie Ruiz, Associate Director, Employee Development & Compliance Services  
(361) 825-2765, Corpus Christi Hall (CCH) 130

Other Title IX Investigators Include:

Wanese Butler - Employee Development & Compliance Services Coordinator  
(361) 825-2765, Corpus Christi Hall (CCH) 130

Kristi Diaz - Employee Development & Compliance Services Coordinator  
(361) 825-2765, Corpus Christi Hall (CCH) 130

Mr. Ralph McFarland, Assistant Director for Disability Services  
(361) 825-2658, Corpus Christi Hall (CCH) 116a

Mr. Lionel Cassin, Information Security Officer  
(361) 825-2124, Corpus Christi Hall (CCH) 105a

Ms. Angela Walker, Associate Dean of Students (faculty and staff only)  
(361) 825-6219, University Center (UC) 206

Ms. Kristina Yzaguirre, Student Conduct Officer (faculty and staff only)  
(361) 825-6219, University Center (UC) 206

Dr. David Billeaux, Associate Vice President for Academic Affairs  
(361) 825-2393, Corpus Christi Hall (CCH) 291c

## **Prohibited Forms of Sexual Misconduct**

### Overview of Expectations Regarding Sexual Misconduct:

For the purpose of these procedures the term 'student' shall be defined as: an individual who has accepted his/her offer of admission, and/or who is taking courses from the University, either full-time or par-time, pursuing undergraduate, graduate, or professional studies. Individuals who withdraw after allegedly violating the *Student Code of Conduct* or who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered students. In addition, students who are living in University residence halls and apartments, although not enrolled in this institution, are also considered students. Any and all individuals that the most recent version of the *Student Code of Conduct* regards as a student are subject to the sexual misconduct policies described in this process. A copy of the *Student Code of Conduct* can be found online at [judicialaffairs.tamucc.edu](http://judicialaffairs.tamucc.edu).

Sexual misconduct offenses include, but are not limited to:

1. Sexual Harassment
2. Non-Consensual Sexual Contact (or attempts to commit same)
3. Non-Consensual Sexual Intercourse (or attempts to commit same)
4. Sexual Exploitation

### *Sexual Harassment is:*

- Unwelcome, gender-based verbal or physical conduct that is,
- Sufficiently severe, persistent or pervasive that it,
- Has the effect of unreasonably interfering with, denying or limiting someone's ability – physically or mentally –to participate in or benefit from the University's education program, services and/or activities.

Examples of Sexual Harassment may include, but are not limited to:

- Each day as a student employee arrives to work the office supervisor makes an unwelcome comment about the fit of the student's clothing and the way their body looks.
- Professor probes into student's past sexual behaviors even though it is not directly related to any class topic. The instructor continues to demand answers from the students, even when they are visually uncomfortable and unwilling to respond.
- One student continually hugs another group member in such a way that their two bodies are touching and the hug lingers longer than what is normally socially acceptable and makes the student feel uncomfortable.
- One student sends multiple unwelcome texts each day to their ex-partner's current significant other explicitly describing alleged current sexual activity between the two.

*Non-Consensual Sexual Contact is:*

- Any intentional sexual touching,
- However slight,
- With any object,
- By a man or a woman upon a man or a woman,
- That is without consent and/or by force.

Examples of Non-Consensual Sexual Contact may include, but are not limited to:

- An instructor asks a student to meet after class. During this meeting the instructor touches the student on the buttocks area without consent.
- While eating lunch and goofing around a student grabs another student's breast without consent.
- One roommate hugs the other, tightly, pressing their body up against the other individual's groin area without consent.

*Non-Consensual Sexual Intercourse/Sexual Assault is:*

- Any sexual intercourse,
- However slight,
- With any object,
- By a man or woman upon a man or woman,
- That is without consent and/or by force.

Examples of Non-Consensual Sexual Intercourse may include, but are not limited to:

- A student passes out at a party. Several students proceed to have intercourse with the individual who was clearly passed out.
- A student organization uses broomsticks to penetrate inductees against their will as a requirement for membership.
- Two students utilize illegal substance together and then one student initiates penetration with the other incapacitated student without receiving consent to do so.

\*Note: Any student who is found to be in violation of Non-Consensual Sexual Intercourse will automatically be assigned a sanction of suspension or expulsion. Other sanctions may be issued in addition. Additional information can be found in the “Sanctions” section of this document.

*Sexual Exploitation occurs when:*

- A student takes non-consensual or abusive sexual advantage of another for his/her 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 other sexual misconduct offenses. Behaviors which may be included in this category include, but are not limited to:
  - Invasion of sexual privacy, regardless of medium
  - Prostituting another individual
  - Non-consensual photography, video or audio-taping of nudity or sexual activity
  - Going beyond the boundaries of consent
  - Engaging in voyeurism
  - Knowingly transmitting an STI or HIV to another student
  - Exposing one’s genitals in non-consensual circumstances; inducing another to expose their genitals
  - Sexually-based stalking and/or bullying may also be forms of sexual exploitation

Examples of Sexual Exploitation may include, but are not limited to:

- One student gives another multiple beverages that contain alcohol without telling them before attempting to engage in intercourse.
- A student uses a webcam to record their roommate’s sexual activities without their knowledge.
- Two staff members intentionally engage in sexual conduct where another staff member is forced to watch or leave their workspace.

*Additional Applicable Definitions:*

Other Forms of Sexual Misconduct (will fall under this process when gender-based):

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person
- Discrimination, defined as actions that deprive other members of the community of education or employment access, benefits or opportunities on the basis of gender
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, imitation, pledging, joining, or any other group-affiliation activity (as defined further in the *Student Code of Conduct*)
- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1st Amendment)
- Stalking: Behavior in which an individual willingly, maliciously and repeatedly engages in a knowing course of conduct directed at a specific person and/or group which reasonably and seriously alarms, torments, or terrorizes the person(s). This conduct

makes the victim(s) fear either bodily injury or death, bodily injury or death of another individual and/or that an offense will be committed against their property.

*Consent:*

For the purpose of this process consent must be freely and actively given through mutually understood terms of actions. Silence, or the absence of yes, in and of itself, cannot be interpreted as consent. Previous relationships or prior consent cannot imply consent to future sexual acts. A person is deemed incapable of giving consent when the person is any of the following:

- a minor,
- coerced
- physically helpless
- has a developmental disability
- under the influence of alcohol or drugs to the point of being unable to make a rational decision
- unconscious
- asleep.

This list serves as an example and is not inclusive of all situations.

A person always retains the right to revoke consent through clear and direct verbal or non-verbal communication at any time during a sexual act. An individual who is physically or mentally incapacitated, blacked out, unconscious, or unaware that the sexual misconduct is occurring is considered unable to give consent.

*Blackout is:*

A period where memory formation is blocked. A period of consistent memory loss is termed a blackout, whereas periods of memory is both lost and formed intermittently can be referred to as a brownout. Blackout does not automatically indicate incapacitation.

*Use of Force is:*

Using violence, the threat of violence, intimidation, implied threats, coercion or blackmail to obtain a desired outcome or behavior from another individual and/or group.

Examples:

- Have sex with me or I'll tell your professor that I saw you cheating.
- Send me photos of you in the shower or your face won't look that great at next week's formal.
- I won't give you a good review on our group project unless you make out with me.

*Dating Violence is:*

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Examples:

- Two students are arguing about trust issues in their relationship when one student smacks the other across the face and takes their cell phone so that they can't call anyone for help.

- Two students who have recently broken up meet up at a local coffee shop to return items to one another and one student shoves the other up against a wall and begins yelling about how this is all their fault.

*Domestic Violence is:*

The willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior perpetrated 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 by a person similarly situated to a spouse of the victim.

*Example:*

Two students are in a relationship and live together off campus. While one student is taking out the trash the other student secretly reads through their text messages and finds communication they are unhappy with. When their partner returns to the apartment they grab them and push them against the stair railing, injuring their back, and begins yelling about the messages.

*Retaliation is:*

Any behavior and/or adverse action taken against a person and/or group because of participation in a complaint or investigation.

*Examples:*

- I know you filed that report about me – hope you didn't plan on passing this course.
- A group refuses to admit a new member because the student filed a report regarding their behavior at a new member event.
- A supervisor begins limiting a student worker's weekly hours after a complaint is filed regarding the supervisor's behavior.

The University will not tolerate instances of retaliation. To report retaliation, contact the University's Title IX Coordinator and/or the Office of Judicial Affairs.

## **Sanctions**

Sanction(s) may be imposed upon a student after being found in violation of the *Student Code of Conduct*. The following considerations will be made in determining appropriate sanctions:

- The nature of the violation
- The student's role in the incident
- The impact on the University community
- Past misconduct
- The student's current disciplinary status
- Previous decisions in similar cases

The sanctions listed below are not exhaustive, but merely serve as guidelines and may be levied in any combination. Sanctions will typically be imposed in an active and educational manner. Failure to comply with sanctions given may result in more severe sanctions and a registration hold may be placed on the student's account. The hold will remain on the student's account until sanction(s) are completed. (NOTE: Registration holds prevent students from registering for or

dropping classes). Students found in violation of the *Student Code of Conduct* may still be held accountable for financial obligations including, but not limited to: tuition, fees and housing.

- A. Education: Involvement in educational activities designed to increase self-awareness such as self-directed research, online courses, referrals to campus resources and any other assignments deemed appropriate.
- B. Conduct Warning: A letter of reprimand stating the student violated the *Student Code of Conduct* and indicating that any future violation of the *Student Code of Conduct* will subject the student to further conduct proceedings, in which the original violation will be considered when determining the sanctions to be imposed.
- C. Community Service: Service hours as deemed appropriate by the hearing body. The location of the service will be approved by the Student Conduct Officer.
- D. Restitution: Payment for damage to the University's property. The dollar amount is determined by the cost of materials to repair the item damaged, including any labor needed to replace or restore the item.
- E. Restricted Access: Restricting or banning from entering certain designated areas and use of specific equipment as defined by the Student Conduct Officer for a specified period of time. Restricting or banning may include, but is not limited to, access to a University owned or operated facility and/or services, academic related programs and/or opportunities, internships, access to on campus housing, participation in University-sponsored activities, or contact with a specified University community member(s).
- F. Conduct Probation: A written reprimand that defines a student as "not in good conduct standing" for a specific period of time as a result of academic and/or behavioral misconduct. If a student violates any other rules and regulations within the jurisdiction of the judicial system while under University Conduct Probation, that student will be subject to further student conduct proceedings and possibly more severe sanctions than would normally be imposed for the new offense alone.
- G. Housing Eviction: Permanent separation of the student from University on-campus residence facilities. A student who is removed from on campus housing as the result of this sanction may be required to pay the full room charge and any other fees that are owed as stipulated in the lease agreement.
- H. Suspension: Temporary loss of the privilege of being enrolled as a student at Texas A&M University-Corpus Christi, for a definite period of time. Once the student is eligible to return, conditions for readmission may apply. Suspended students may not reside in on-campus housing and will be considered "not in good disciplinary standing". Suspension will commence immediately unless otherwise noted by the Hearing Body.
- I. Expulsion from the University: Permanent loss of the privilege of being enrolled as a student at Texas A&M University-Corpus Christi. The student will be considered "not

in good disciplinary standing”. Expulsion will commence immediately unless otherwise noted by the Hearing Body.

- J. **Deferred Sanction:** The temporary or permanent delay of a sanction for a definite or indefinite period. If further violation(s) of the *Student Code of Conduct* occur the deferred sanction may be imposed immediately. In determining whether to impose the deferred sanction, the student’s judicial record, as well as the nature and circumstances of the subsequent offense, will be considered.
- K. **Banned from Campus:** Prohibition from entering the grounds and/or facilities owned and/or operated by the University, including on-campus housing facilities. Individuals who violate this sanction may be issued a criminal trespass warning, arrested and/or have additional charges filed against them under the *Student Code of Conduct*.
- L. **Interim suspension:** Refer to Article X in the *Student Code of Conduct* for definition and procedural guidelines.

## **Reporting Procedures and Confidentiality**

All alleged incidents of sexual misconduct should be reported immediately, within 60 calendar days of the most recent incident, or the report may be considered untimely filed and dismissed. Incidents can however, still be reported outside of this timeline and may be considered for investigation.

If you or someone you are aware of has experienced sexual misconduct, you have multiple reporting options regardless of the location of the incident, on or off campus. The University may choose not to issue charges for other policy violations, which may include alcohol and/or drug possession or use, when the individual is providing information regarding an incident of alleged sexual misconduct.

### *Off campus incident not involving a member of the University Community:*

If the accused individual is not a student and the incident occurred off campus at a non-University sponsored event or at a non-University owned or operated facility, the incident should be reported to the local police who will serve as the primary investigators. The reporter may also choose to follow up with the University Police Department.

### *Off campus incident involving one or more members of the University Community:*

All other reports regarding incidents of sexual misconduct which involve an alleged member(s) of the University community and occurred off campus at a non-University sponsored event or at a non-University owned or operated facility should be reported to the University Police Department.

### *On campus incidents:*

All other reports regarding incidents of sexual misconduct, which occurred on University owned or operated property or at a University sponsored events should be reported to the University Police Department.



**University Police Department**  
**Physical Plant/Police Department Building**  
**361-825-4444**  
<http://police.tamucc.edu/index.html>

*\*Note: All incidents of Sexual Harassment (see "Prohibited Forms of Sexual Misconduct" in this document) should be reported to the Title IX Coordinator.*

The University Police Department provides a designated officer who serves as crime victims' liaison to all victims of crime. The liaison provides guidance to the victim with medical, emotional, or financial needs, and makes referrals to the appropriate counseling agencies. The liaison serves as a link between law enforcement and the victim. Please note that providing information to the crime victims' liaison may be considered providing the University notice and could result in further investigation of the incident. For more information contact University Police Department, SGT. Wright 361-825-4444.

Individuals may also be able to file a formal report with the Office of Student Engagement and Success and/or the Title IX Campus Coordinator. These resources are expressly there for you to report sexual misconduct and *Student Code of Conduct* violations and they will review the information provided and determine what action may be necessary. Reports made to these individuals are considered official notice of the incident to the University. Please note that if you speak with other University employees regarding the incident they may be forced to disclose the information to the Title IX Campus Coordinator and/or a Student Conduct Administrator.

#### *Confidential Reporting*

If you would like to discuss this issue in a confidential manner on campus you may do so by contacting a mental health professional on or off campus. The University Counseling Center and the University Health Center have trained professionals able to assist our students with these types of issues. These offices may offer you confidentiality, sharing options and advice without any obligation to tell anyone who you are unless you want them to. Contact them at the following:

**University Health Center**  
**Sandpiper Building**  
**361-825-2601**  
**Nurse Line - 361-825-5735**  
<http://healthcenter.tamucc.edu//index.html>

**University Counseling Center**  
**Driftwood Building 107**  
**361-825-2703**  
<http://counseling.tamucc.edu//index.html>

If you prefer to speak with someone confidentially off campus you may reach out to the following resources:

Women's Shelter of South Texas  
1-800-580-4878  
<http://www.thewomensshelter.org/>

South Texas Children's Home Ministries  
361-991-8680  
<http://www.stchm.org/our-ministries/family-counseling>

Women and Men's Health Services of the Coastal Bend  
361-855-9107  
<http://wamhs.org/>

Rape Abuse and Incest National Network (RAINN)  
1-800-656-HOPE  
<https://www.rainn.org/>

Once a formal report is made, the University may initiate an investigation and a resolution is typically determined within 60 days. If the alleged victim does not wish for the University to investigate the incident, information may still be gathered regarding the claim. The ability of the University to respond to the incident may be limited. Please note that intentionally, falsely reporting a crime, conduct violation and/or safety threat is prohibited and appropriate action will be taken.

## **Timely Warning**

Schools are required to provide "timely warnings" when the school considers a crime to pose an ongoing "threat to students and employees". The warning will not identify the victim by name; however, some information such as location, time, etc. may cause the victim to be known.

## **Process**

### *Process Overview*

- Timeline: University is given notice
- Investigation
- Notice of Investigation Outcome
- Appeal of Investigation Outcome (if applicable)
- Transfer of Case to Judicial Affairs (if applicable)
- Pre-Conference Meeting
- Hearing and Deliberation
- Notice of Hearing Outcome
- Appeal of Hearing Outcome (if applicable)
- Final Outcome Notification

### *Timeline:*

Once the University receives notice of an allegation of sexual misconduct every attempt will be made to bring resolution to the incident within 30-60 calendar days. Delays to this timeline may result due to criminal investigations, holiday breaks, final examinations and other circumstances as deemed appropriate. Interim actions to remedy the situation may occur during the investigatory process. Please see the 'Provisions' and 'Sanctions' sections in this process for more details.

### *Investigation:*

Once a complaint is received, the Title IX Coordinator will initiate a prompt, thorough and impartial investigation if there is reasonable cause to believe that a sexual misconduct violation may have occurred. The Title IX Coordinator may work in conjunction with the Office of Student Engagement and Success and/or the University Police Department throughout the process. This investigation is designed to provide a fair and reliable determination about whether the University's sexual misconduct policy has been violated.

Once the University receives notice of an incident of concern an investigation will begin. This investigation may include the interviewing of multiple parties, compiling and verifying statements, obtaining and gathering documentation including the outcomes of medical evidence testing, speaking with expert witnesses, research and writing an executive summary of facts regarding the alleged incident. Pending the outcome of that investigation charges may be issued to the accused(s). The investigation may not substantiate charges under this sexual misconduct policy, however may indicate other violations of the Student *Code of Conduct*, which may be referred to the Office of Judicial Affairs to proceed with the standard judicial process. If the investigation of sexual misconduct is unsubstantiated and no evidence of other violations is presented, no hearing will occur and the case will be closed, pending appeal process.

### *Appeal of Investigation Outcome*

The designated administrator's decision and the sanction(s) imposed by the sanctioning authority can be appealed by either the individual subjected to the alleged illegal discrimination, sexual harassment and/or related retaliation or respondent, but only on the following bases, as applicable:

- (a) A procedural error or omission that significantly impacted the outcome;
- (b) New evidence, unknown or unavailable during the investigation, that could have significantly impacted the outcome;
- (c) The appropriateness or severity of the sanctions.

Appeals on any of these bases must be directed to the Office of Employee Development and Compliance Services, whose decision with regard to the appeal of the investigation will be final. The appeal may be confined to a review of the written documentation and record of the investigation, and pertinent documentation regarding the grounds for appeal. The appeal does not create an entitlement to a new investigation or a full re-hearing of the complaint. The appeal process for both the individual subjected to the alleged illegal discrimination, sexual harassment and/or related retaliation and the respondent must be equitable but not necessarily identical. The appeal must be filed within five business days of the sent notification of the investigation outcome.

*Pre-Conference Meeting:*

Once a charge has been issued, the accused will be given notice to attend a pre-conference meeting with the Office of Judicial Affairs. During this meeting the alleged charges, the conduct process and student rights will be discussed. A pre-conference meeting will also be offered to the alleged victim to discuss the process and their rights as well.

*Hearing:*

A hearing date may then be set and all individuals who are to be in attendance will be notified of the day, time and location. A notice will be sent (certified letter and/or email) to the hearing board members, accused and alleged victim (s) notifying them of when they are able to review information that will be presented at the hearing. This notice will include the names of any witnesses that will be requested to attend to provide information.

The hearing package will include the investigator's report and will be available at least three business days prior to the hearing. Additional relevant information, not known and/or not available at the time the hearing package was prepared, may be presented at the hearing. If this new information is made available, it should be given to the Title IX Coordinator. This new information may then be provided to the investigator(s) for further review.

Those present may consist of trained board members, the investigator, a representative from the Office of Judicial Affairs, the alleged victim (s), the accused and any applicable witness, which may include expert witnesses. Additionally, the alleged victim and the accused may bring one advisor each. Hearings are typically conducted in a closed session to ensure as much privacy as possible.

During the hearing, the investigator, or designee, will provide an oral summary of the final investigation report. The investigator, or designee, will also respond to questions from the panel, the accused and the alleged victim. The board will review the information provided. The accused and the alleged victim may be able to ask questions during the hearing.

If the board needs to review additional information an executive session may be called by the chair to allow time for additional witnesses to be called before the panel or to address procedural questions. In rare circumstances, a hearing may be tabled and scheduled to reconvene at another time.

*Deliberation:*

In a closed door session the hearing body will deliberate and based on information presented, using a standard of preponderance of information, a determination regarding each individual alleged violation will be made along with any applicable sanctions and/or remedies.

*Outcome & Notification:*

Notification of the outcome, any applicable sanctions and/or remedies of the hearing will be provided in writing via certified letter and/or email to both the accused and alleged victim.

### *Appeal of Hearing Outcome:*

A request for appeal must be submitted within five business days of the dated, written notification (hard copy or electronic) of the decision rendered during the student conduct proceeding. Any decision that does not receive a request for appeal within the designated timeline will be considered final and binding upon all involved.

Request for appeals must be in writing, addressed and delivered to the Associate Dean of Students' Office. Students must follow the appeal procedures outlined in the *Student Code of Conduct*, including completion of necessary forms found online at [www.judicialaffairs.tamucc.edu](http://www.judicialaffairs.tamucc.edu).

Except as required to explain the basis of new information, an appeal shall be limited to a review of the information provided at hearing and supporting documents for one or more of the following purposes:

*Guidelines:* To determine whether the hearing was conducted in conformity with prescribed guidelines. Deviations from designated guidelines will not be a basis for sustaining an appeal unless significant prejudice to the alleged violator or victim was the result.

*New Information:* To consider new information sufficient to alter a decision, not brought out in the original hearing because such information could not have been known to the alleged violator and/or victim at the time of the original hearing.

*Appropriate Sanctions:* To determine whether the sanction(s) imposed were consistent with common outcomes for the violation of the Student Code of Conduct, which the student was found to have committed.

Once a request for appeal is received, the student and other relevant parties will be notified. Any request for appeal will be sent to the Appellate Board along with all relevant materials regarding the case.

If an appeal is upheld by the Appellate Board, the matter shall be returned to the original Hearing Body for re-opening of the hearing to allow reconsideration of the original determination. Upon rehearing, the outcome of the case may be overturned and/or if applicable, the same, a lesser, or a greater sanction may be assigned.

If an appeal is not upheld, the matter shall be considered final and binding upon all involved.

## **Provisions**

### *Provisions: Alleged Victim*

The following are provisions that the University may provide to the complainant and/or alleged victim:

- An investigation into the complaint along with an appropriate resolution made in good faith effort by University administrators.
- The right to have an advisor (parent, friend, victim advocate, attorney, etc.) present during all campus proceedings regarding the incident.

- The right to be informed of the outcome and sanction of any disciplinary hearing involving the misconduct offenses discussed in this policy, usually within 3 business days of the end of the conduct hearing.
- Student will be informed of reporting options including on campus and local police.
- Student will be informed of available resources including counseling, mental health or student services for victims of sexual assault, both on campus and in the community.
- The student will be notified of options for changing academic and living situations after an alleged sexual misconduct incident, if so requested by the victim and if such changes are reasonably available (no formal complaint, or investigation, campus or criminal, need occur before this option is available). Accommodations, when available and appropriate may include:
  - Change of an on-campus student's housing to a different on-campus location
  - Arranging to dissolve a housing contract and pro-rating a refund
  - Exam (paper, assignment) rescheduling
  - Taking incomplete in a class
  - Transferring class sections
  - Alternative course completion options
  - Assisting with withdrawal
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing. However, prior history and/or instances of sexual misconduct may be considered relevant and submitted before the hearing body.
- The right to have any complaint of sexual misconduct adjudicated.
- The right to make a written victim-impact statement which would be provided to the hearing body after a finding of in violation has been made, but prior to sanctions being assigned.
- The right to a campus no contact order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others;
- The right to appeal the outcome of the hearing based upon guideline error or new significant information that was not known at the time of the hearing.
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least 3 business days prior to the hearing. If evidence is discovered after the documentation has been presented to the victim, arrangements may be made to provide the victim with the additional information.
- The right to be informed of the names of all witnesses who will be called to give statements at the hearing, within three business days, except in cases where a witness' identity will not be revealed to the accused student for compelling safety reasons until the time of the hearing.
- Maintaining confidentiality as much as possible, while still fully investigating and administering the conduct process.
- The right to a closed hearing.

- The right to request that any member of the conduct body be removed on the basis of demonstrated bias. Any decision made regarding the possible removal of a hearing body member is final.
- Accommodations may be made in the hearing facility to avoid face-to-face viewing between the victim and the accused. Not being present for the hearing and/or written statement may not be deemed as an appropriate accommodation. Note: If any individual chooses not to attend the hearing, proceedings may continue in their absence, without their oral statements.
- The right to attend a meeting and/or receive notification prior to the hearing, during which they will be fully informed of campus conduct rules and procedures. This notification will also address the nature and extent of all alleged violations contained within the complaint.
- The right to the opportunity (if desired), during the hearing to ask questions, indirectly, of any witnesses present (including the accused student), and the right to discuss and/or question the accuracy documentary evidence.
- The right to be present for all statements given during the hearing and evidence presented before the conduct body.

#### *Provisions for the Accused*

The following are provisions that the University may provide to the accused:

- An investigation into the complaint along with an appropriate resolution made in good faith effort by University administrators.
- The right to have an advisor (parent, friend, victim advocate, attorney, etc.) present during all campus proceedings regarding the incident.
- The right to be informed of the outcome and sanction of any disciplinary hearing involving the misconduct offenses discussed in this policy, usually within 3 business days of the end of the conduct hearing.
- Student will be informed of reporting options including on campus and local police.
- Student will be informed of on and off campus resources for medical, counseling, and advisory services.
- The student will be notified of options for changing academic and living situations after an alleged sexual misconduct incident, if so requested by the accused and if such changes are reasonably available (no formal complaint, or investigation, campus or criminal, need occur before this option is available). Accommodations, when available and appropriate may include:
  - Change of an on-campus student's housing to a different on-campus location
  - Arranging to dissolve a housing contract and pro-rating a refund
  - Exam (paper, assignment) rescheduling
  - Taking incomplete in a class
  - Transferring class sections
  - Alternative course completion options
  - Assisting with withdrawal
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing. However, prior history and/or instances of sexual

misconduct may be considered relevant and submitted before the hearing body.

- The right to have any complaint of sexual misconduct adjudicated.
- The right to make a written impact statement which would be provided to the hearing body after a finding of in violation has been made, but prior to sanctions being assigned.
- The right to a campus no contact order against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining student or others;
- The right to appeal the outcome of the hearing based upon procedural error or new information that was not known at the time of the hearing.
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least three business days prior to the hearing. If evidence is discovered after the documentation has been presented to the accused, arrangements may be made to provide the accused with the additional information.
- The right to be informed of the names of all witnesses who will be called to give statements at the hearing, within three business days, except in cases where a witness' identity will not be revealed to the accused student for compelling safety reasons until the time of the hearing.
- Maintaining confidentiality as much as possible, while still fully investigating and administering the conduct process.
- The right to a closed hearing.
- The right to request that any member of the conduct body be removed on the basis of demonstrated bias. Any decision made regarding the possible removal of a hearing body member is final.
- Accommodations may be made in the hearing facility to avoid face-to-face viewing between the victim and the accused. Not being present for the hearing and/or written statement may not be deemed as an appropriate accommodation. Note: If any individual chooses not to attend the hearing, proceedings may continue in their absence, without their oral statements.
- The right to attend a meeting and/or receive notification prior to the hearing, during which they will be fully informed of campus conduct rules and procedures. This notification will also address the nature and extent of all alleged violations contained within the complaint.
- The right to the opportunity (if desired), during the hearing to ask questions, indirectly, of any witnesses present (including the victim), and the right to discuss and/or question the accuracy documentary evidence.
- The right to be present for all statements given during the hearing and evidence presented before the conduct body.
- The right to a conduct panel comprised of representatives of both genders.
- The right to a campus conduct outcome based solely on evidence presented during the conduct process.



- Sanctions will be determined based upon the severity and nature of the offense with further consideration given to the possibility of the wider effect of the offense on the University community. Past history of misconduct, on record with the University, may be a consideration when determining appropriate sanctions.

**Drafted by:**

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**Resources utilized to create this policy include:**

Title IX Coordinator and Administrator Training and Certification Course Materials (2011) Association of Title IX Administrators, and The National Center for Higher Education Risk Management.

ATIXA Gender-Based and Sexual Misconduct Model Policy (2011) NCHERM Partners: Brett A. Sokolow, J.D. W. Scott Lewis, J.D. Sandra K. Schuster, J.D.

Civil Rights Grievance and Investigation Process: Complaints Concerning Discrimination and/or Harassment (2012). Title IX Certification Training, San Antonio, TX.

Meeting the OCR Guidelines: Practical Lessons for Complying with Title IX (2012) Sandra K. Schuster, J.D. Katie Clifford, J.D.

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