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

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
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, pursing 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 studentconduct.tamucc.edu.

Sex-based misconduct is: unwelcome conduct on the basis of sex that is severe, persistent, or pervasive enough to create a work, educational, or campus living environment that a reasonable person would consider intimidating, abusive, or offensive. Sex-based misconduct is explicitly prohibited under this regulation. Aiding another in the commission of sex-based misconduct is also prohibited under this regulation. Sex-based includes, but is not limited to, sexual assault, sexual exploitation, dating violence, domestic violence, and stalking based on sex.

Sexual Harassment is: a form of sex discrimination. Unwelcome conduct on the basis of sex (of a sexual nature or otherwise): (1) by an employee of the member who conditions the provision of an aid, benefit, or service of the member on an individual’s participation in that unwelcome sexual conduct; (2) determined by a reasonable person to be so severe and pervasive and objectively offensive that it effectively denies a person equal access to the member’s education program or activity; or (3) sexual assault or dating violence, domestic violence, or stalking based on sex.

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 that 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.
Sexual Assault is: an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances in which the victim is incapable of giving consent. These offenses are defined as:

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.

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.

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

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

Sexual assault is explicitly prohibited under this regulation. Aiding another in the commission of sexual assault is also prohibited under this regulation. Sexual assault is a form of sexual harassment or sex-based misconduct.

*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 is: a situation in which an individual(s) takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. For example, sexual exploitation could include such actions as secretly videotaping sexual activity, voyeurism, sexually-based stalking, invasion of sexual privacy, exposing one’s genitals or causing another to expose one’s genitals, and knowingly exposing another person to a sexually transmitted infection or disease. Sexual exploitation is a form of sex-based misconduct

- For example, sexual exploitation could include, but are not limited to, the following actions:
  - invasion of sexual privacy, regardless of medium,
  - electronically recording and/or transmitting images or sound of another person or person(s) engaging in sexual activity without knowledge or consent,
  - taking, possessing, and/or transmitting non-consensual photography or images,
  - engaging in voyeurism,
  - sexually-based stalking and/or bullying,
  - prostituting another individual,
  - exposing one’s genitals or causing another to expose one’s genitals,
and/or knowingly exposing another person to a sexually transmitted infection or disease.

Note: Sexual exploitation is also explicitly prohibited under the TAMUS 08.01.01. Sexual exploitation is a form of sex-based misconduct.

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

(a) fear for the person's safety or the safety of others; or

(b) suffer substantial emotional distress.

For the purposes of this definition:

(a) 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.

(b) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

(c) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. [34 CFR 668.46(a)]

Note: Stalking is also explicitly prohibited under the TAMUS 08.01.01 regulation. Aiding another in the commission of stalking is also prohibited and may result in that student being charged separately. Stalking based on sex is a form of sexual harassment or sex-based misconduct.

**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.

(a) The existence of such a relationship will be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(b) For the purposes of this definition:

(1) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(2) Dating violence does not include acts covered under the definition of domestic violence. [34 U.S.C. 12291(a)(10)]
Note: Dating violence is also explicitly prohibited under the TAMUS 08.01.01 regulation. Aiding another in the commission of dating violence is also prohibited and may result in that student being charged separately. Dating violence is a form of sexual harassment or sex-based misconduct.

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: a felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the victim;
- a person with whom the victim shares a child in common;
- a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- 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
- 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. [34 U.S.C. 12291(a)(8)]

Note: Domestic violence is explicitly prohibited under the TAMUS 08.01.01. Aiding another in the commission of domestic violence is also prohibited and may result in that student being charged separately. Domestic violence is a form of sexual harassment or sex-based misconduct.

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: intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured under civil rights laws and regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. The exercise of rights protected under the First Amendment does not constitute prohibited retaliation, nor does the filing of a mandatory report as required by Section 2.1 of TAMUS 08.01.01. In addition, a university official who files a mandatory report or charges an individual with making a materially false statement in the course of an investigation has not engaged in prohibited retaliation.
Retaliation may include, but is not limited to, intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured under civil rights laws and regulations.

Note: Retaliation is also explicitly prohibited under the TAMUS 08.01.01 regulation. Aiding another in the commission of retaliation is also prohibited and may result in that student being charged separately.

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 Student Conduct & Community Standards.

Additional Applicable Definitions:

Consent is:
a clear, voluntary and ongoing agreement to engage in a specific sexual act. Persons need not verbalize their consent to engage in a sexual act for there to be permission. Permission to engage in a sexual act may be indicated through physical actions rather than words. A person who is asleep or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or whose agreement was made by threat, coercion, or force, cannot give consent. Consent may be revoked by any party at any time.

The examples in this definition are not inclusive of all situations.

For the purposes of this document, 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.”
Any use of physical force, restraint, and/or imposing on someone physically in order to gain sexual access.

Hostile environment – a situation in which there is unwelcome harassing conduct based on a legally protected class that is severe, persistent, or pervasive enough to create a work, educational, or campus living environment that a reasonable person would consider objectively offensive. The determination of whether an environment is “hostile” must be based on all of the circumstances, which may include the frequency of the conduct, the nature and severity of the conduct, whether the conduct was physically threatening or humiliating, and/or the mental or emotional effect of the conduct on the individual(s) subjected to the alleged discrimination.

Sanctions
Sanction(s) may be imposed upon a student after being found in violation of the Student Code of Conduct. For more information on sanctioning development and guidelines see appendix. The following considerations will be made in determining appropriate sanctions:

- The nature of the violation
- Predation
- The student’s role in the incident
- The impact on the University community
- Previous history of 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 conduct 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. 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.

K. Interim suspension: Refer to Article X in the Student Code of Conduct for definition and procedural guidelines.

Sanctioning Guidelines

The following sanctions are deemed to be appropriate minimum sanctions:
Non-Consensual Sexual Intercourse/Sexual Assault (with predation)
Examples to include but not limited to:
- Dating violence (with a pattern of previous violence or predation)
- Penetration (with predation), no matter how slight, of a person’s anus or vagina with any bodily part or object
- Performing oral sex on another person without consent or forcing a person to perform oral sex

Minimum Sanctions for these types of violations:
- Expulsion
- Restriction from campus grounds and/or events.

Non-Consensual Sexual Intercourse/Sexual Assault (without predation)
Examples to include but not limited to:
- Dating violence (without a pattern of previous violence or predation)
Penetration (with predation), no matter how slight, of a person’s anus or vagina with any bodily part or object Performing oral sex on another person without consent or forcing a person to perform oral sex
Minimum Sanctions for these types of violations:
- Educational sanctions appropriate for specific behavior(s) (based on findings of investigation)
- Suspension (1 year)
- Expulsion

Nonconsensual Sexual Contact
Examples to include but not limited to:
- Intentional touching (no matter how slight), without consent, of another person’s breasts, thighs, buttocks, genitals, groin; touching another area if the act of touching is sexual in nature; or knowingly touching a person with one’s own genitals, breasts, or buttocks.
- Touching may be with any part of one’s body and/or any object.

Minimum Sanctions for these types of violations:
- Educational sanctions appropriate for specific behavior(s) (based on findings of investigation)
- Conduct Probation
- Suspension (1 year)
- Expulsion

Sexual Exploitation
Examples to include but not limited to:
- Secretly video-taping and/or broadcasting sexual activity
• Purposeful sharing of sexually explicit images, video, or recorded sounds of another person without that person's full knowledge and consent
• Nonconsensual voyeurism
• Invasion of sexual privacy
• Indecent exposure
• Knowingly transmitting or exposing someone to a sexually transmitted disease without consent

Minimum Sanctions for these types of violations:
• Educational sanctions appropriate for specific behavior(s) (based on findings of investigation)
• Conduct Probation
• Suspension (1 year)
• Expulsion

Stalking

Examples to include but not limited to:
• Following or conducting surveillance of another person
• Repeated and unsolicited contact (e.g., phone calls, text messages, social media posts and messages, emails, and gifts)
• Repeated and unsolicited visits to residence, business, or classes when having no legitimate and reasonable purpose for the visit other than to make contact with the person

Minimum Sanctions for these types of violations:
• Conduct Warning
• Educational sanctions appropriate for specific behavior(s) (based on findings of investigation)
• Conduct Probation
• Suspension (1 year)
• Expulsion

Sexual Harassment

Examples to include but not limited to:
• Unwelcome sexual advances, requests for sexual favors or other verbal, nonverbal or physical conduct of a sexual nature constitute sexual harassment when this conduct is so severe, persistent or pervasive that it explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work or educational performance, or creates an intimidating or hostile work, educational, or campus living environment. These may include:
  o Sexual jokes, questions, remarks, and teasing
  o Sexual gestures
  o Inappropriate comments on appearance (dress and/or body parts)
  o Unwelcome gifts of a sexual nature
- Attempting to coerce, threaten, or intimidate another into dates and/or sexual acts
- Sexually explicit visual or audio material outside of one’s own private residence that is considered inappropriate to the environment and not reasonably attached to academic pursuits for which a student is enrolled

Minimum Sanctions for these types of violations:
- Conduct Warning
- Educational sanctions appropriate for specific behavior(s) (based on findings of investigation)
- Conduct Probation
- Suspension (1 year)
- Expulsion

**Reporting Procedures and Confidentiality**

If you or someone you are aware of has experienced sex-based 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 sex-based misconduct.

**Off campus incident not involving a member of the University Community:**
If the respondent 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 sex-based 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 sex-based 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 complainants’ liaison to all complainants of crime. The liaison provides guidance to the complainant 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 complainant. Please note that providing information to the crime complainants’ liaison may be considered providing the University notice and could result in further investigation of the incident. For more information contact University Police Department, Captain Perkins 361-825-4444.

Individuals may also be able to file a formal report with Student Conduct & Advocacy and/or the Title IX Campus Coordinator. These resources are expressly there for you to report sex-based 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:

The Purple Door
361-881-8888
https://purpledoortx.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 complainant 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 complainant by name; however, some information such as location, time, etc. may cause the complainant 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 Student Conduct & Community Standards (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 sex-based 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 sex-based misconduct violation may have occurred. The Title IX Coordinator may work in conjunction with Student Conduct & Advocacy 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 sex-based 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. Once the initial investigation has been completed, a draft report will be created and shared with the complainant(s), the respondent(s), and the parties’ advisors. The complainant and respondent will have 10 business days to review the report and submit written commentary to the investigative authority. Once all commentary has been reviewed and considered, and any necessary changes have been made, the final report will be submitted directly to the designated administrator.

Pending the outcome of the investigation, charges may be issued to the respondent(s). After the final draft investigation report is submitted to the designated administrator, the designated administrator or designee, will provide the final investigative report and exhibits to the parties. The parties will be provided at least 10 business days to review the final investigation report and to respond in writing to the designated administrator (if desired) prior to the hearing. The investigation may not substantiate charges under this policy, however, may indicate other violations of the Student Code of Conduct, which may be referred to Student Conduct & Community Standards to proceed with the Student Sexual Misconduct process. If the investigation of sex-based misconduct is unsubstantiated and no evidence of other violations is presented, no hearing will occur and the case will be closed, pending appeal process.

Student Sexual Misconduct Hearing Process

Informal Resolution
At any time prior to the adjudication of a formal complaint, the parties may seek informal resolution to resolve a complaint. The following conditions apply to informal resolution:

a. Informal resolution is a voluntary process. No party may be compelled to participate in informal resolution. The system member, in consultation with SECO, must agree to allow an informal resolution to move forward and must obtain the parties’ voluntary, written consent to the informal resolution process.

b. Prior to an informal resolution, the parties will be provided with:
   a. written notice of the allegations;
   b. the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; and
c. the consequences of withdrawing from the informal process and resuming the formal process, and including the records that will be maintained or could be shared.

c. Once a party agrees to participate in informal resolution, they may withdraw from the process at any time prior to a final agreement and resume the formal grievance process. Information shared in the informal resolution process may not be introduced into the formal process without independent evidence.

d. Once a final agreement is established through informal resolution, the complaint may not return to the formal complaint process unless one or both parties fails to abide by any conditions established in the agreement.

e. Informal resolution options include mediation, restorative conferences, shuttle facilitation, and other forms of facilitated dialogue. Each member must work in consultation with SECO in developing informal resolution programs and the conditions for their use.

f. Mediation may not be used to resolve complaints of rape, statutory rape, dating violence, domestic violence, or any case in which imminent threats of harm may exist.

g. Members may not offer an informal resolution process in sex-based complaints unless a formal complaint is filed and may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Pre-Conference Meeting:
Once a charge has been issued, the respondent will be given notice to attend a pre-conference meeting with the Student Conduct & Community Standards. During this meeting the alleged charges, the conduct process and student rights will be discussed. Both the complainant and respondent will participate in the pre-conference meeting.

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, with a minimum of 5 business days’ notice. A notice will be sent via University email to the hearing board members, respondent and alleged complainant(s) notifying them of the investigation report and exhibits that will be presented at the hearing. Parties will have a minimum of 10 business days to review the final investigation report and respond in writing to the designated administrator (if desired) prior to the hearing. This notice will include the names of any witnesses that will be requested to attend to provide information. The notice may also include instructions for those participating in hearings through online means.

Those present may consist of trained board members, the investigator, a representative from the Student Conduct & Community Standards, the alleged complainant(s), the respondent and any applicable witness, which may include expert witnesses. Additionally, the alleged complainant and the respondent may bring one advisor each. If a party does not have an advisor, the University will provide a trained advisor to assist during the hearing process. Hearings are 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 will also respond to questions from the hearing body, the advisor of the respondent(s), and the advisor of the complainant(s). The hearing body will review the information provided.

Cross-Examination:
The complainant(s) and respondent(s) at a hearing must have an advisor with them. In cases in which a party does not have an advisor, the University will provide a trained advisor to assist them during the hearing process.

Cross-examination of the complainant, respondent, and any witnesses may not be conducted by the opposing party but must be conducted by their advisor. Questions are to be directed to the hearing officer or hearing panel chair, who will determine whether or not each question will be admitted into the hearing. If a question is deemed repetitious or not relevant, the decisionmaker(s) must explain the decision to exclude it. When parties are being subject to cross-examination, the advisor may not answer on behalf of the party. If any individual (complainant, respondent, witnesses) do not participate in cross-examination, their statement(s) cannot be considered by the hearing body for decision-making purposes.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such 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 and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. The hearing panel chair or hearing officer makes final determinations on the relevance of questions and evidence.

New Information:
If the hearing body needs to review new information that is presented in the hearing, an executive session may be called by the chair to allow time for additional witnesses to be called before the hearing body or to address procedural questions. In rare circumstances, a hearing may be tabled and scheduled to reconvene at another time.

If substantial, new information or witnesses are presented during the hearing, but not previously provided during the investigation process, then a hearing may be tabled and scheduled to reconvene at another time.

Deliberation:
In a closed-door session, the hearing body will deliberate, based on information presented using a standard of preponderance of information. A determination regarding each 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 University email to both the respondent(s) and complainant(s).
**Appeal of Hearing Outcome:**
A request for appeal must be submitted within five (5) business days of the dated, written notification (hard copy or electronic) of the decision rendered during the proceeding. Any decision that does not receive a request for appeal within the designated timeline will be considered final and binding upon all involved.

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 irregularity that significantly impacted the outcome;
b. New evidence, unknown or unavailable during the investigation, that could have significantly impacted the outcome. The new evidence must be provided at the time of appeal with the appropriate member appeals form;
c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome;
d. The appropriateness or severity of the sanctions.

Appeals on any of these bases must be submitted to Student Conduct & Community Standards. The Student Conduct Officer will appoint an appeal panel.

The appeal is 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 complainant(s) and the respondent(s) must be equitable, but not necessarily identical.

Parties will be given three (3) business days to review the appeal outcome and submit any written response in support of, or challenging, the decision of the appellate authority. However, the appeal panel’s decision will be final.

The appellate authority may reach one of the following outcomes:

a) affirm the original finding and sanction;
b) affirm the finding and modify the sanction; or
   c) remand the case to a new hearing or review.

**Drafted by:**

Angela Walker, Associate Dean of Students

Rosie Ruiz, Associate Director, Equality Opportunity/Employee Relations, Training & Development

Michael La Torre, Senior Student Conduct Officer

Jasmine Harris, Student Conduct Officer
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. Saundra K. Schuster, J.D.


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


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Revised September 2018

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