

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: General Administration

NUMBER: 01.D.08

AREA: Legal Affairs

SUBJECT: Sexual Misconduct Policy

1. PURPOSE

1.1. This Policy provides the exclusive mechanism for managing the non-criminal reporting, processing, investigation, and resolution of complaints of sexual misconduct filed with the University of Houston System and its component institutions (“University”). For the purpose of this policy, Sexual Misconduct is defined as:

- Sexual Harassment
- Non-Consensual Sexual Contact
- Sexual Assault
- Sexual Exploitation
- Sexual Intimidation
- Intimate Partner Violence (Domestic and Dating Violence)
- Stalking

1.2. The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. Sexual Misconduct (as defined in this policy), a form of sex discrimination, is antithetical to the standards and ideals of the University. The University will take appropriate action in an effort to eliminate Sexual Misconduct from happening, prevent its recurrence, and address its effects.

1.3. The University aims to eradicate Sexual Misconduct through education, training, policies, and serious consequences for violations of its policies. The University will conduct educational programs, including ongoing prevention and awareness campaigns, designed to promote awareness and prevent Sexual Misconduct.

1.4. This Sexual Misconduct Policy (“Policy”) defines and describes prohibited sexual conduct and establishes a procedural mechanism for providing a prompt, fair, and impartial investigation and resolution of complaints of Sexual Misconduct. (Please see the University’s [Anti-Discrimination Policy, SAM 01.D.07](#), to find the procedural recourse for responding to unlawful discrimination and harassment incidents that do not constitute Sexual Misconduct.)

1.5. Consistent with its commitment to addressing sex discrimination and harassment, the University complies with Title IX of the Education Amendments of 1972 (“[Title IX](#)”), which prohibits discrimination on the basis of sex in education programs or activities, Title VII of the Civil Rights Act of 1964 (“[Title VII](#)”), which prohibits sex discrimination in employment, and Section 304 of the Violence Against Women Reauthorization Act of 2013 (also known as the Campus Sexual Violence Elimination Act (SaVE Act)). Sexual Misconduct, as defined in this Policy, constitutes a form of sex discrimination prohibited by Title IX and Title VII. Inquiries concerning the application of Title IX may be referred to the [University Title IX Coordinator](#) or to the U.S. Department of Education Office for Civil Rights.

1.6 All members of the University are expected to adhere to this policy, to cooperate with the procedures for responding to complaints, and to report conduct or behavior that they believe to be in violation of this Policy (See Sections 9 and 10 for reporting procedures). The University will take ~~seriously~~ allegations of Sexual Misconduct ~~seriously~~ and will take prompt disciplinary action against any individuals within its control who violate this Policy. During its investigation into these matters, the University will work to ensure that all persons are given appropriate support and fair treatment.

1.7. This Policy applies to all University administrators, faculty, staff, students, and third parties within the University’s control, including visitors and applicants for employment. This policy applies regardless of the complainant’s or respondent’s sex, sexual orientation, gender identity, gender expression, immigration ~~status~~, or citizenship status. Moreover, acts of Sexual Misconduct can occur between strangers or acquaintances.

1.8. Prohibited actions defined in this policy may also constitute a violation of criminal law. Anyone who reports Sexual Misconduct will be notified of their right to speak to the appropriate law enforcement agency and file a report for possible criminal prosecution.

2. GENERAL DEFINITIONS

2.1. Complainant – A party or entity (in the case of the University) who makes a complaint of Sexual Misconduct under Section 14 of this Policy.

2.2. Intimate Partner Violence – A term used to describe a range of prohibited actions that occur between people who have or have had a romantic or sexual relationship. Intimate partner violence can be a single event or a pattern of behavior that includes sexual and/or physical abuse. The term encompasses domestic violence and dating violence as further described in Section ~~6.5 of this~~ Policy.

2.3. Respondent – A party who has been accused of committing an act of Sexual Misconduct by a Complainant under Section 14 of this Policy.

- 2.4 Responsible Employee – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, ~~resident-residence~~ life coordinators and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 8.7 of this Policy.
- 2.5 Sexual Activity – ~~Intercourse~~Penetration, however slight, meaning of the:
- ~~Vaginal penetration~~Vulva by a penis, object, tongue, or finger;
 - ~~Anal penetration~~Anus by a penis, object, tongue, or finger;
 - ~~Oral copulation (mouth to genital contact or genital to mouth contact)~~Mouth by a penis, vulva, object, tongue, or finger in a sexual manner.
- Sexual Aactivity also includes:
- Any intentional contact with another's intimate body parts defined as the person's breasts, buttock(s), groin, or genitals;
 - Touching another with any of these body parts;
 - Making or causing another to touch a person or themselves with or on any of these body parts; and/or
 - Any intentional bodily contact in a sexual manner, though even if it does not involving contact with/of/by breasts, buttock(s), groin, genitals, mouth, or other orifice.
- 2.6 Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. ~~–~~The term includes sexual harassment, nonconsensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, stalking, and intimate partner violence as further described in Section 6.5 of this Policy.
- 2.7 Student – Any person who has been accepted for admission, ~~or who~~ is currently enrolled, or was previously enrolled in the University pursuing undergraduate, graduate, or professional studies, whether full-time or part-time, and a person who is registered for a future semester.
- 2.8 Title IX Coordinator – The person who has been designated on each component institution's campus to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is responsible for conducting the administrative investigation of reports of Sexual Misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or

more Assistant Title IX Coordinators.–_The Title IX Coordinators for each component institution campus are ~~located here~~;

- University of Houston System/University of Houston
Assistant VC/VP for Equal Opportunity Services
(713) 743-8835
- University of Houston – Downtown
Vice President for Employment Services and Operations
713-222-5366
Student Conduct Officer/Title IX Coordinator or
(713) 221-8056
- University of Houston – Clear Lake
Executive Director, Human Resources and Affirmative Action
(281) 283-2164
- University of Houston – Victoria
Director, Human Resources/Equal Opportunity/Title IX
Coordinator or Assistant Equal Opportunity/Title IX Coordinator
(361) 570-4800
(361) 570-4835

- 2.9. University-Affiliated Activity – Any activity on or off campus that is initiated, aided, authorized or supervised by the University or by an officially-recognized organization of the University.
- 2.10. University Community – All faculty, staff, and students of and visitors to any University premises or University-~~a~~Affiliated activity.
- 2.11. University Premises – Buildings or grounds owned, leased, operated, controlled or supervised by the University.

3. JURISDICTION

- 3.1. The University has jurisdiction over, and will respond to, allegations of Sexual Misconduct occurring on the University’s premises, at University-Affiliated Activities, and/or where both the accused person and alleged victim are a student, faculty, or staff. The University does not have jurisdiction over allegations between visitors or non-affiliated persons.
- 3.2. The University has the discretion to investigate conduct occurring off University premises or at a non-University-~~a~~Affiliated activity if either the Complainant ~~and~~ or Respondent ~~are is~~ UH-~~A~~Affiliated.

- 3.3. The process outlined in this Policy is separate from any criminal proceeding related to the reported behavior and may occur while criminal proceedings are ongoing.
- 3.4. Proceedings under this Policy will not be dismissed or delayed because criminal prosecution is pending, criminal charges have been dismissed, or the criminal charges have been reduced.
- 3.5. Proceedings may also continue if a party is no longer employed with or a student of the University.
- 3.6. The University does not limit the timeframe for filing a complaint of Sexual Misconduct. Complaints can be submitted at any time following an incident, although the University's ability to take action may be limited by the passage of time.

4. CONSENT

- 4.1. For purposes of this Policy, consent is an informed and freely and affirmatively communicated willingness to participate in a particular sexual activity by a capacitated or legally competent person.
- 4.2. Consent can be expressed either by words or by clear and unambiguous actions, as long as those words or actions create mutually understandable permission regarding the conditions of each instance of sexual activity.
- 4.3. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging the receipt of consent, and individuals are thus urged to seek consent in verbal form for each instance of sexual activity before they initiate the sexual activity.
- 4.4. It is the responsibility of the person who wants to initiate a sexual activity to ensure that they have the consent of the other(s) to initiate ~~in~~ each instance of sexual activity before they initiate the sexual activity.
- 4.5. Consent is active, not passive, and cannot be inferred from the absence of a "no."
- 4.6. Without words or ~~Silence or lack of protest or resistance, without~~ actions demonstrating permission, silence, lack of protest, or lack of resistance cannot be assumed to show consent.
- 4.7. The existence of a dating relationship or a previous sexual relationship between the persons involved does not provide the basis for an assumption of consent to future sexual activity.

- 4.8. Consent must be present throughout the sexual activity, and consent to some form of sexual activity cannot be automatically taken as consent to any other sexual activity.
- 4.9. ~~At any time, a~~ participant can communicate that they no longer consent to continuing the sexual activity at any time.
- 4.10. If there is confusion as to whether an individual has consented or continues to consent to sexual activity, it is essential that the initiating person stops the sexual activity until the confusion is clearly resolved.
- 4.11. Alcohol or other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and effectively given. ~~Because~~ Consent is difficult to discern when a person has ingested alcohol and/or other drugs, ~~a~~ anyone wanting to initiate sexual activity is strongly encouraged to err on the side of caution when either they or the person(s) they want to initiate the activity with appear(s) to be intoxicated or there is good cause to believe either party is intoxicated.
- 4.12. Being under the influence of drugs and/or alcohol is never a defense for not obtaining consent.
- 4.13. A person cannot consent if physical force or violence is used or threatened.

5. INCAPACITATION

- 5.1. A person is incapacitated (not legally competent) and cannot consent to sexual activity if:
- The person is unconscious or otherwise unable to resist;
 - The person is unaware that sexual activity is occurring; and/or
 - The person does not have the legal capacity to consent;
- (The definition of consent in the State of Texas Penal Code can be found at <http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm#22.011>.)
- 5.2. Further, a person may be unable to consent when they are mentally or physically incapacitated due to the influence of drugs, alcohol, or medication and as a result are rendered temporarily incapable of understanding, appraising, or controlling the nature of their conduct.
- 5.3. A person's incapacity to understand, appraise, or control the nature of their conduct may be analyzed based on surrounding factors including, but not limited to, hallucinations, blackouts, seizures, vomiting, slurred speech, disorientation, or ~~ineordination~~ lack of physical or mental coordination.

- 5.4. When a Respondent has been accused of engaging in sexual activity with an incapacitated person, the ~~perspective of a~~ reasonable person standard will be ~~the basis for~~ applied to determining whether the Respondent knew or should have known about the Complainant's ability to give consent.

6. FORMS OF SEXUAL MISCONDUCT

6.1. Sexual Harassment

Sexual ~~H~~harassment is a form of sex discrimination that includes verbal, written, or physical behavior of a sexual nature, directed at someone, or against a particular group, because of that person's or group's sex, or based on gender stereotypes, when that behavior is unwelcome, severe, or pervasive, and where it meets either of the following criteria:

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

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

5. Gratuitous use of sexually-oriented materials not directly related to the subject matter of a class, course, or meeting, even if not objected to by those present.

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

6.2. Nonconsensual Sexual Contact

Nonconsensual ~~s~~Sexual ~~e~~Contact is any intentional touching in a sexual manner, however slight or momentary, or the use of an object to touch another in a sexual manner.

Examples of ~~n~~Nonconsensual ~~s~~Sexual ~~e~~Contact under this Policy include, but are not limited to, the following non-consensual sexual activity:

- a. Unwanted touching of a sexual nature; and
- b. Use of force or intimidation to make someone else engage in nonconsensual sexual touching.;

6.3. Sexual Assault

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

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

- a. Penetration, however slight, -of the vulva, anus, or mouth, by a ~~an~~ orifice (anal, vaginal, oral) with the penis, finger, or other ~~object~~object; and
- b. Oral sexOther acts of sodomy or cunnilingus, and
- c. Knowingly exposing a person to and/or transmitting a sexually-transmitted infection or HIV/AIDS to another person.

The definition of ~~s~~Sexual ~~a~~Assault as used in this Policy may constitute sexual assault in Texas. - Relevant state law can be found at

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

6.4. Sexual Exploitation

Sexual ~~e~~Exploitation occurs when a party takes nonconsensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not

otherwise constitute one of the other Sexual Misconduct offenses.— Examples can include, but are not limited to, the following behaviors:

- a. Prostituting another;
- b. Non-consensual ~~electronically~~ recording, photographing, or transmitting intimate or sexual utterances, sounds, or images electronically or by other means without the knowledge and consent of all parties involved;
- c. Voyeurism or watching or recording someone when that person is in a place where they would have a reasonable expectation of privacy;
- d. Going beyond the boundaries of consent (such as engaging in actions that were not consented to during an otherwise consensual encounter);
- e. Distributing intimate or sexual images about another person without that person's consent, even if the images were obtained consensually;
- f. ~~Knowingly exposing a person to and/or transmitting a sexually transmitted infection or HIV/AIDS to another person.~~

6.5. Sexual Intimidation

Sexual Intimidation involves threatening another with behavior of a sexual nature. Examples of this include, but are not limited to, engaging in indecent exposure (akaAKA “flashing”), or transmitting or displaying a nude image where the action was unsolicited and a reasonable person would feel threatened or intimidated.

6.6. Stalking

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

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

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

- a. Occur between people who currently have or have had a romantic or sexual relationship; or
- b. Occur because of the accused person's desire to have a romantic or sexual relationship with the alleged victim.

For the purposes of defining ~~s~~Stalking under this Policy:

A “course of conduct” is a pattern of behavior composed of two or more acts, whether directly by a Respondent or through third parties, over a period of time, however short, that evidence a continuity of purpose.

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

A “reasonable person” means a reasonable person in the Complainant’s circumstances.

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

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

The Policy’s definition of Stalking also extends to cyberstalking.

The definition of sStalking as used in this Policy may constitute stalking in Texas. Relevant state law can be found at <http://www.statutes.legis.state.tx.us/SOTWDocs/PE/htm/PE.42.htm>.

6.67. Intimate Partner Violence

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

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

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

a. Domestic Violence

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

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

b. Dating Violence

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

For the purposes of this Policy, the existence of such a relationship shall be determined by the alleged victim with consideration of the following:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

6.78. Additional Actions that Constitute a Violation of this Policy

- a) An attempt and/or threat to engage in conduct that would otherwise constitute a violation of this Policy;
- b) Knowingly aiding another in violating this Policy;
- c) Knowingly covering up actions by oneself or others that would constitute a violation of this Policy, including removing, hiding, altering, or destroying evidence;
- d) Knowingly engaging in actions that impede or obstruct a University investigation related to this Policy; and
- e) Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information.

7. REPORTING RIGHTS

7.1. The University encourages reporting violations of this policy to any of the following University entities:

- EOS/Title IX Office

- University of Houston Police Department
- Dean of Student's Office
- Residence Life
- Human Resources

7.2. Alleged victims of a violation of this Policy have the right to decide if and when they report the incident(s) to the University, law enforcement, or to any other member of the University community. The University strongly encourages individuals to access services, such as counseling and medical help, that can respond to the immediate mental and physical impact of an act of Sexual Misconduct. Individuals can access these services regardless of whether they report what happened.

7.3. The University strongly encourages reporting as soon as possible. Prompt reporting may preserve options that delayed reporting does not, including immediate police response and the preservation of physical evidence that may be necessary to prove an alleged criminal offense or to obtain a protective order.

7.4. Once an individual alerts the University of an alleged violation of this Policy they will be provided with written information including this Policy, their rights, reporting options, and support resources.

7.5. Alleged victims of a violation of this policy have multiple options regarding the involvement of law enforcement and campus authorities, including:

- The option to notify proper law enforcement authorities including on-campus and local police;
- The option to be assisted by campus authorities in notifying law enforcement authorities; and
- The option to decline to notify such authorities.

7.6. Whether an alleged violation of this policy occurs on or off-campus, an alleged victim will be provided written notification of their rights and options.

7.7. Anyone can receive information about this Policy, their rights under the Policy, reporting options, and support resources without disclosing facts related to the alleged incident.

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

- Title IX Coordinator and any Assistant Coordinators
- Campus police and/or security

- Campus-based counseling staff
- Campus-based student health center staff
- Human Resources staff
- Dean of Students Office staff
- Student Housing and Residence Life professional staff

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

8. REQUIRED REPORTING

- 8.1. All employees, students, and third parties are strongly encouraged to immediately report any incidents alleged Sexual Misconduct to the Title IX Coordinator and/or an Assistant Coordinator.
- 8.2. All Responsible Employees who receive a report of Sexual Misconduct must share that information with the Title IX Coordinator and/or an Assistant Coordinator and cannot maintain confidentiality with the exception of:
- a. The staff of a counseling or health center acting in their capacity as a counseling or health provider, and
 - b. Individuals who are associated with the University in the role of a pastoral counselor or confidential advisor acting in that capacity.

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

- a. Academic Advisors
- b. Residence Advisors
- c. Members of Student Government Associations, and
- d. Individuals, including students, serving as responsible persons, even if they are volunteers, at a University-Affiliated activity. These individuals could be teaching, graduate assistants, research assistants, chaperones, peer mentors, or retreat counselors.

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

- 8.3. Anyone who is required to report known or suspected violations of this Policy must promptly contact the Title IX Coordinator and/or an Assistant Coordinator and disclose what they know about the alleged incident. Even if a required reporter is a Campus Security Authority, and must provide a report to law enforcement or other campus departments, the reporter must also directly notify the Title IX Coordinator and/or Assistant Coordinator as soon as possible.
- 8.4. Reports should include all relevant details including the following:
- a. The name of the accused person (if known)
 - b. The name of the alleged victim
 - c. The names of other people who may be involved, and
 - d. Relevant facts, including date, time, and location of the incident(s)
- 8.5. The University will comply with all applicable state laws regarding mandatory reporting for known or suspected abuse, neglect, or exploitation of a child or a vulnerable adult.
- 8.6. Individuals who are required to report under this Policy but fail to do so may face disciplinary action by the appropriate administrator.
- 8.7. Individuals who are not required to report and who are not bound by state confidentiality laws are still encouraged to report known or suspected violations of this Policy and may do so through the confidential and non-confidential methods listed in Sections 9 and 10 of this Policy.
- 8.8. Public awareness events such as “Take Back the Night,” candlelight vigils, protests, “survivor speak outs” or other forums in which members of the community disclose incidents of violations of this Policy are not considered notice to the University for the purpose of triggering its obligation to investigate. However, information regarding rights under this Policy will be available to anyone who discloses Sexual Misconduct at one of these types of events.
- 8.9 Reporting to Outside Entities: An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct:

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

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

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

9. ANONYMOUS REPORTING

9.1. Alleged victims and others not required to report may submit a report through a web-based reporting system called MySafeCampus, which allows the option of anonymity.

9.2. The web address for MySafeCampus is <http://www.mysafecampus.com>.

9.3. Reports received through this site will be reviewed and may be investigated.

9.4. The University will work with anyone who is identified via a MySafeCampus report or subsequent investigation to provide confidentiality to the full extent possible under this policy.

9.5. Upon receipt of an anonymous report that implicates the Sexual Misconduct policy, the Title IX Coordinator will invite the reporter to formalize the report into a formal complaint. While interim measures and actions are available to anonymous reporters without filing a formal complaint, an Equal Opportunity Services (“EOS”) Finding as described in Section 14.5 requires a formal complaint.

9.6. After formalizing the anonymous report into a formal complaint, the complaint process will follow Section 14 “Formal Complaint Procedures.”

9.7. If the anonymous reporter declines to pursue a formal complaint, the Title IX Coordinator may pursue a complaint on behalf of the University after considering the factors described in Section 10.10 of this Policy.

810. CONFIDENTIALITY

10.1. Alleged victims and others who are either not required to report or are bound by state law to remain confidential have the right to remain confidential.

10.2. The University will protect the confidentiality of all individuals involved in a report or a complaint by refusing to disclose their identifying information to anyone outside the University to the maximum extent permitted by law.

~~8.3. Anyone can receive information about this Policy, their rights under the Policy, reporting options, and support resources without disclosing facts related to the alleged incident.~~

~~8.4. The following members of the University community can provide this information:~~

~~— Title IX Coordinator and any assistant coordinators~~

~~— Campus law enforcement and/or security~~

~~— Campus based counseling staff~~

~~— Campus based student health center staff~~

~~— Human Resources staff~~

~~— Dean of Students Office staff~~

~~— Student Housing and Residence Life professional staff~~

~~8.5. In addition, each component may have their own programs and services related to the issues covered in this policy.~~

10.3. University staff of campus counseling or health centers, individuals operating in the role of a pastoral counselor or a confidential advisor, and other University employees whose job is to provide medical and mental health care are exempt from required reporting.

10.4. Community-based programs not affiliated with the University may also be confidential resources and would follow their own policies and procedures regarding reporting duties.

10.5. Individuals may request that their report be investigated by the University without providing their name to the Respondent or witnesses. However, this may reduce the University's ability to thoroughly investigate a report. When the University cannot fully investigate a report or take appropriate disciplinary action because of a request for a confidential investigation, the University will pursue other steps to limit the effects of the alleged violation, attempt to prevent its ~~reoccurrence~~recurrence, and respond to the impact on the involved parties and the community.

10.6. If an individual discloses an incident to a responsible employee but wishes to maintain confidentiality and/or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University will balance a request for confidentiality with its responsibility to provide a safe and non-discriminatory environment for the University community.

10.7. Requests for confidentiality will be evaluated on a case-by-case basis by the [Title IX Coordinator](#) in cooperation with appropriate administrators and will consider a range of factors, including but not limited to the following:

- a. Whether there is an increased risk that the accused person may commit additional violations of this Policy;
- b. Whether a weapon was used;
- c. Whether the alleged victim is a minor;
- d. Whether there are other means to obtain relevant evidence (e.g. security cameras or personnel, physical evidence); and;
- e. Whether the report reveals a pattern of alleged actions.

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

10.8. Information will be shared within the University only to those individuals with a legitimate need to know.

10.9. The University will protect the confidentiality of alleged victims and other necessary parties while ensuring Clery Act statistical reporting requirements, specifically, such statistical reporting will be done without inclusion of personally identifying information about an alleged victim.

10.10. The University will maintain as confidential any accommodations or protective measures provided to the alleged victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

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~~10. REQUIRED REPORTING~~

~~10.1. All employees, students, and third parties are strongly encouraged to immediately report any incidents alleged sexual misconduct to the Title IX Coordinator and/or a Deputy Coordinator.~~

~~10.2.—All Responsible Employees who receive a report of Sexual Misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator and cannot maintain confidentiality with the exception of:~~

~~The staff of a counseling or health center
Individuals who are associated with the University in the role of a pastoral counselor or confidential advisor~~

~~—In addition, some individuals who are not Responsible Employees who must share reports of Sexual Misconduct with the Title IX Coordinator and/or a Deputy Coordinator, including, but not limited to:~~

~~Academic Advisors~~

~~Resident Advisors~~

~~Members of Student Government Associations~~

~~Individuals, including students, serving as responsible persons, even if they are volunteers, at a University-affiliated activity. These individuals could be teaching, graduate, and research assistants, chaperones, peer mentors and retreat counselors.~~

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

~~10.3.—Anyone who is required to report known or suspected violations of this Policy must promptly contact the Title IX Coordinator and disclose what they know about the alleged incident. Even if a required reporter is a Campus Security Authority, and must provide a report to law enforcement or other campus departments, the reporter must also notify the Title IX Coordinator as soon as possible.~~

~~10.4.—Reports should include all relevant details including the following:~~

~~The name of the accused person (if known)~~

~~The name of the alleged victim~~

~~The names of other people who may be involved~~

~~Relevant facts, including date, time, and location of the incident(s)~~

~~10.5.—The University will comply with all applicable state laws regarding mandatory reporting for known or suspected abuse, neglect, or exploitation of a child or a vulnerable adult.~~

~~10.6.—Individuals who are required to report under this Policy but fail to do so may face disciplinary action by the appropriate administrator.~~

~~10.7.—Individuals who are not required to report and who are not bound by state confidentiality laws are still encouraged to report known or suspected violations of this Policy and may do so through the confidential and non-confidential listed in Sections 11 and 12.~~

~~10.8. Public awareness events such as “Take Back the Night,” candlelight vigils, protests, “survivor speak outs” or other forums in which members of the community disclose incidents of violations of this Policy are not considered notice to the University for the purpose of triggering its obligation to investigate. However, information regarding rights under this Policy will be available to anyone who discloses Sexual Misconduct at one of these types of events.~~

~~10.10. Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct:~~

~~Office for Civil Rights
U.S. Department of Education
1301 Young Street, Suite 1169~~

~~Dallas, TX 75202~~

~~Phone: (800) 537-76970~~

~~FAX: (214) 767-0432~~

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

~~U.S. Equal Employment Opportunity Commission~~

~~Dallas District Office~~

~~207 S. Houston Street, 3rd Floor~~

~~Dallas, TX 75202~~

~~Phone: (800) 669-4000~~

~~FAX: (214) 253-2720~~

11. RETALIATION

11.1. The University takes reports of Sexual Misconduct very seriously and will not tolerate retaliation against those who make such reports or participate in the investigation or adjudication process.

11.2. Retaliation includes, but is not limited to, any adverse employment or educational action taken for making a report of Sexual Misconduct, or otherwise participating under this Policy.

11.3. Any actual or threatened retaliation, or any act of intimidation to prevent or otherwise obstruct the reporting of a violation of this Policy or the participation in proceedings relating to a report of Sexual Misconduct, may be considered a separate violation of this Policy and may result in disciplinary sanctions.

11.4. Any person who believes that they have been subjected to retaliation should immediately report this concern to their Title IX Coordinator.

12. IMMEDIATE ASSISTANCE

- 12.1. Medical Assistance: An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, ~~go directly to the emergency department~~ please go to the nearest hospital that provides SAFE services.

For more information about the SAFE, see

<http://www.uhssalutations.com/reporting/> <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapes.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

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

- 12.2. Police Assistance: Because the prohibited actions outlined in this policy may also constitute a criminal act, individuals seeking emergency assistance or who want to file a criminal report may contact their University police department or the appropriate municipal law enforcement agency. In addition to any possible criminal action, the University Police will forward the report to the Title IX Coordinator.
- a. Reporting to the police helps maintain future options regarding criminal prosecution.
 - b. When the victim reports the incident, a police officer will take a statement from the victim regarding what happened.
 - c. An adult victim can request that their identity be kept confidential.
 - d. When a police report is filed, the victim is not obligated to participate in criminal proceedings or University disciplinary action.

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

- University of Houston Main Campus Police Department
<http://www.uh.edu/police> 713-743-3333
- University of Houston - Clear Lake Police Department
<http://www.uhcl.edu/police> 281-283-2273
- University of Houston - Downtown Police Department
<http://www.uhd.edu/police-department/Pages/default.aspx> 713-221-8911
- University of Houston- Victoria Campus
<http://www.uhv.edu/police/> 361-570-4245
- ~~UH System at Cinco Ranch~~
~~Security officers are assigned to UHS at Cinco Ranch. Should anyone need assistance concerning an escort, safety or security matter, contact the security officer on duty by calling 832-842-2877. If the security officer is not available during an EMERGENCY situation, dial 911.~~
- University of Houston – Katy Campus
Security station is located on the third floor of the UHV – Katy Campus, 2002 W. Grand Parkway N., Building 2, Katy, Texas. Security can be reached at the duty desk at 281-396-3777.
- UH at Sugar Land
<http://www.uh.edu/sugarland/>
Security officers are assigned to UH at Sugar Land. Should anyone need assistance concerning an escort, safety or security matter, contact the police officer or security officer on duty by calling ~~281-275-3302~~832-842-2929. If the security officer is not available during an EMERGENCY emergency situation, dial 911.

12.3. Counseling Assistance:– A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a Sexual Assault Forensic Exam (SAFE) or report the assault to the police. ~~He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.~~

12.4. Alleged victims of violations of this Policy will be provided written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available both within the University and in the community. Additionally, written notification about options for, available assistance in, and how to request changes to academic, living, transportation and working situations or protective measures. The University will make such accommodations or provide such protective measures if requested and if they are

reasonably available, regardless of whether the victim chooses to report the alleged violations of this Policy to University Police or local law enforcement.

- 12.5. Interim Measures and Ongoing Assistance: When an incident of Sexual Misconduct is reported, the University will consider interim measures to protect involved persons and/or the community while the incident is investigated and adjudicated through this Policy.
- An alleged victim does not need to file a formal complaint to receive interim measures. ~~Some~~ interim measures may be implemented without an alleged victim disclosing identifying information related to the incident(s). Interim measures include, but are not limited to, changes to academic, living, transportation, or working situations. The University will assess whether an interim measure will involve making these changes to the alleged victim or accused person's circumstances on a case-by-case basis.
 - When the University offers counseling through University-~~a~~Affiliated student counseling and employee assistance programs as an interim action, an alleged victim will not have to pay related fees for that counseling while the processes outlined in this Policy are on-going.
 - If an interim measure is refused by a party it may still be available at a later date.
 - No~~o~~n-contact orders can be issued under this Policy between the parties involved in a report or others related to a report as an interim measure. No~~o~~n-contact orders issued under this Policy can remain in effect indefinitely and are not contingent upon a formal complaint.
 - Violations of interim measures may be considered a separate violation under this Policy or may be investigated and adjudicated through other relevant University policies.
 - The University will honor any order of protection, no~~o~~n-contact order, restraining order, or similar lawful order issued by any criminal, civil or tribal court.

12.6. Resolution Agreement: If a report or complaint alleges a non-violent violation of this policy other than Sexual Assault, the Complainant and Respondent may agree to resolve the report or complaint by agreement rather than after a finding by EOS under this policy. Under a Resolution Agreement, the parties agree that without a finding by EOS, the Respondent will participate in training or other conditions as set forth in the Resolution Agreement. The Resolution Agreement is not an admission a guilt or responsibility by the Respondent, and neither party has the right to appeal.

13. REPORT RESPONSE PROCEDURES

- 13.1. A report of a violation of this Policy does not automatically begin the formal complaint procedures, listed in Section 14 of this Policy.
- 13.2. The University will determine the appropriate response to each report based on the information available at the time of the report and, whenever possible, with the input of the alleged victim.
- 13.3. When the University receives a report ~~from anyone~~ regarding an alleged violation of this Policy, it will take reasonable measures to do the following:
- a. Contact the alleged victim to notify them of their rights and options under this Policy;
 - b. Implement any appropriate interim measures; and
 - c. Complete a preliminary investigation, as appropriate.

14. FORMAL COMPLAINT PROCEDURES

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

A formal complaint may be filed by the alleged victim or by the University.

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

14.1. Step One: Filing a Complaint

- 14.1.1. If the alleged victim wishes to pursue a formal complaint, they will be asked to complete a Formal Complaint Form with their Title IX Coordinator, who will forward the Complaint to EOS.
- 14.1.2. If the alleged victim does not wish to pursue a formal complaint:
 - a. The University may determine that it will serve as a complainant if the alleged victim declines to file a formal complaint.

- b. The decision to file a complaint with the University as ~~e~~Complainant is not taken lightly and will be determined based on various factors including, but not limited to, the type of actions alleged in the report, prior reports received, and/or potential on-going risk to the alleged victim and/or the ~~e~~communityUniversity Community.
- 14.1.3. The University does not limit the timeframe for filing a complaint of Sexual Misconduct. Complaints can be submitted at any time following an incident, although the University's ability to take any action may be limited because of the passage of time.
- 14.1.4. Any named Respondent and Complainant will have the same opportunity to have others present during proceeding, including an opportunity to be accompanied to any related meeting or proceeding by an advisor of choice, who may, at the discretion of the Respondent or Complainant, be an attorney, provided at their own expense, with no cost to the University.
- 14.1.5. Within five (5) business days after receiving a formal complaint, EOS will provide a copy of the complaint to the Respondent.
- 14.1.6. If during the course of an investigation additional actions that may constitute a violation of this Policy are identified, the University will determine on a case-by-case basis whether to investigate those allegations as part of the original complaint or provide an additional Formal Complaint Form to the Respondent. Facts used to make this determination include the type of action identified and whether the actions occurred during the same incident or during a separate incident.
- 14.1.7. Once a complaint is filed, if the Complainant decides that they want to withdraw the complaint, the University's investigation may still proceed.
- 14.1.8 EOS may decline to pursue a complaint for failure to state a valid claim under this Policy. Before making this decision, EOS will discuss the complaint with the Complainant, and will suggest other options for assistance where applicable.
- 14.2. Step Two: Consideration of Interim Measures
- 14.2.1. Although interim measures may have already been considered and implemented, EOS will again consider interim measures at this step to protect involved parties while the incident is investigated and adjudicated through this Policy.
- 14.2.2. EOS and other appropriate University administrators will work together to identify alternative arrangements that will preserve the rights of both

the Complainant and the Respondent, as well as provide a safe overall educational or working environment until (and perhaps after) the complaint is investigated and adjudicated.

14.3. Step Three: Response to a Complaint

- 14.3.1. The Respondent's response to the complaint is due to EOS within five (5) business days from the Respondent's receipt of the Complaint.
- 14.3.2. The response should address and respond to the specific allegations made in the Complaint and can include any other rebuttal information.
- 14.3.3. A response may be provided in writing or through an in-person interview with the investigator(s).
- 14.3.4. While a Respondent is not required to provide any response to the complaint or answer questions related to the investigation, failure to recognize the receipt of the Complaint may be considered a violation of relevant University policies and could result in ~~an~~ additional complaintaction.
- 14.3.5. A Respondent is not required to provide a statement or submit any rebuttal material; however, this will not stop the formal complaint process. Findings will be made based on the information gathered during an investigation.

14.4. Step Four: EOS Investigation

- 14.4.1. An investigation will begin upon receipt of a complaint ~~or other notice~~ of alleged Sexual Misconduct.
- 14.4.2. An investigation may begin prior to receiving a response from the Respondent.
- 14.4.3. The investigator(s) will attempt to interview the Complainant, the Respondent, and any witnesses, as appropriate.
- 14.4.4. The investigator(s) will also gather and review any information it deems pertinent, as well as any information submitted by the Complainant, the Respondent, and/or any witnesses.

14.5. Step Five: EOS Finding

- 14.5.1. A finding by EOS will be issued as soon as practicable. EOS will make every effort to issue its finding within 60 business days from its receipt of the complaint. In investigations exceeding 60 days, a justification for

the delay will be presented to and reviewed by the Title IX Coordinator or his/her supervisor. The ~~e~~Complainant and, ~~R~~Respondent, ~~and supervisor~~ should be provided updates on the progress of the investigation and issuance of the report.

- 14.5.2. The finding will be determined using a preponderance of the evidence standard; that is, whether it is more likely than not that the Respondent violated this Policy.
- 14.5.3. If it is determined that this Policy was violated, appropriate university action will be recommended in an effort to eliminate Sexual Misconduct ~~from happening~~, prevent its recurrence, and address its effects.
- 14.5.4. Even if it is determined that this Policy was not violated, a recommendation may be made that the Respondent undertake educational initiatives and/or trainings.
- 14.5.5. The Complainant and the Respondent will be simultaneously notified in writing of the outcome of its finding and any appeal rights under this Policy.
- 14.5.6. The appropriate university administrator(s) will also be notified of any recommended university action. ~~The~~ appropriate administrator will depend on the status of the respondent (i.e., student, faculty, or employee).
- 14.5.7. At any time after a finding has been made that the Respondent has violated the Policy, the University ~~reserves the right to may~~ implement an interim sanction against the Respondent while the complaint is being further adjudicated.
- 14.5.8. Once a finding has been made, either party to the complaint may request to meet with the investigator(s) to discuss the investigation, ~~and~~ finding, and/or to inspect the investigative file.

14.6. Step Six: Sanctions and Remedies

- 14.6.1. If there is a finding of a violation of this Policy, a recommendation will be made that appropriate university action be taken, and any sanction imposed on the Respondent will be determined by and implemented by the appropriate administrator after consultation with the Title IX Coordinator.
 - a. If there is a finding of a violation of this Policy against a faculty member, any sanctions imposed on the faculty member will be determined by and implemented by the appropriate administrator after consultation with the Title IX Coordinator and consistent

with the component institution's faculty handbook/manual.

- b. If there is a finding of a violation of this Policy against a non-faculty university employee, any sanction imposed on the employee will be determined by and implemented by the appropriate administrator after consultation with the Title IX Coordinator and consistent with the component institution's policies and procedures related to employee discipline.
- c. If there is a finding of a violation of this Policy against a student, any sanction imposed on the student will be determined by and imposed by the Dean of Student's Office or its equivalent after consultation with the Title IX Coordinator and consistent with the component institution's policies and procedures related to student conduct/discipline.

14.6.2. The sanctions for committing an act of Sexual Misconduct will be commensurate to the offense and may include ~~but is not limited to~~ the following:

- Probation (including disciplinary probation)
- Temporary or permanent ban from campus locations (such as residence hall communities)
- Educational programs such as state-certified batterer's intervention
- Ban from participating in campus organizations or activities
- Disqualification from employment or student leadership positions
- Withholding of transcripts, grades, diploma, or degree
- Partial or full criminal trespass
- Suspension from employment and/or enrollment
- Revocation of admission and/or degree
- Termination of employment
- Expulsion

14.6.3. If a party is dissatisfied with a sanction determined by the appropriate administrator under Section 14.6.1, they may appeal the sanction as follows:

- a. Any appeal to the sanction against a faculty member must be addressed through the component institution's faculty handbook/manual;
- b. Any appeal to the sanction against an employee must be addressed through the component institution's policies and procedures related to employee grievances;
- c. Any appeal to the sanction against a student must be addressed through the appeal process in the component institution's student code of conduct or its equivalent.

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

- a. Imposing sanctions against the ~~r~~Respondent, including attending training, counseling, or other treatment program(s);
- b. Ensuring the ~~e~~Complainant and ~~r~~Respondent do not share classes, working environments, or extracurricular activities;
- c. Making modifications to the on campus living arrangements of the ~~r~~Respondent or ~~e~~Complainant (if the ~~e~~Complainant requests to be moved);
- d. Providing comprehensive, holistic victim services including medical, counseling, and academic support services, such as tutoring;
- e. Determining whether ~~s~~Sexual ~~m~~Misconduct adversely affected the ~~e~~Complainant's university standing;
- f. ~~Conducting, i~~n conjunction with University leaders, conducting a University climate check to assess the effectiveness of efforts to ensure that the University is free from ~~s~~Sexual ~~m~~Misconduct, and using that information to inform future proactive steps that the University will take;
- g. Providing targeted group training;
- h. Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate ~~s~~Sexual ~~m~~Misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's

investigation. If the eComplainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the eComplainant should still be offered, and is still entitled to, appropriate final remedies that may include services the eComplainant declined as an interim measure.

14.7. Step Seven: New Information

- 14.7.1. If a party has new information they believe would have significantly impacted the finding, they may submit that information to the Title IX Coordinator.
- 14.7.2. If the Title IX Coordinator determines that the submitted information should be reviewed, and the information was not available for the party to present during the time of the investigation, the case may be re-opened.

14.8. Step Eight: Grounds for Appealing an EOS Finding

- 14.8.1. An appeal must be submitted in writing to the Title IX Coordinator within five (5) business days of receiving the finding.
- 14.8.2. The Complainant and the Respondent both have the right to appeal a finding for any error occurring during the investigation that could have significantly impacted the finding.
- 14.8.3. An appeal is not a new investigation of the complaint.
- 14.8.4. The non-appealing person-party does not have to participate.

14.9. Step Nine: Appeal Process

- 14.9.1. If an appeal is filed in accordance with Section 14.8, the appeal will automatically be presented to the University's Sexual Misconduct Hearing Board ("Board") by the Title IX Coordinator.
- 14.9.2. Members of the Board are selected from recommendations from the component's Faculty Senate, Staff Council, and Student Affairs departments/offices, who shall each recommend at least five individuals to the component's President. The President shall then select a Board of eight with representation from each group recommended. ~~Except for~~ the first Board, members shall serve staggered terms of three years.
- 14.9.3. Upon the Board's receipt of the appeal, a poll will be taken of the Board members by the Title IX Coordinator to identify four members to hear the appeal and ~~comprise~~ compose the Hearing Panel (three members of

the Hearing Panel will serve as voting members and one will serve as an alternate, non-voting member). The role of the Hearing Panel is to review any evidence presented in the appeal for any error occurring during the investigation that could have significantly impacted the finding and is not for the purpose of conducting a de novo review of the complaint, that is, the appeal panel will not reinvestigate the case.

- 14.9.4. If the appeal concerns ~~sexual assault~~Sexual Assault, the appealing ~~student-party~~ may waive their right to a hearing before the Hearing Panel and have their appeal heard by an individual hearing officer not affiliated with the University (“Non-affiliated Hearing Officer”). To waive their right to a Hearing Panel, the appealing ~~student-party~~ must submit written notice to the Title IX Coordinator within five (5) business days of receiving EOS’ finding.
- 14.9.5. The Hearing Panel/Non-affiliated Hearing Officer will make decisions using a preponderance of the evidence standard.
- 14.9.6. The role of the Hearing Panel/Non-affiliated Hearing Officer is to accept, or remand EOS’ finding by determining by a preponderance of the evidence if any error occurred during the investigation that could have significantly impacted its finding. While the Hearing Panel/Non-affiliated Hearing Officer will have the opportunity to review any evidence presented on appeal, their role is not to reinvestigate the original complaint or to review allegations that would otherwise constitute a new complaint under this Policy or any other University policy.
- 14.9.7. Absent extenuating circumstances, the Title IX Coordinator will schedule a hearing to be held within 15 business days from the filing of the appeal.
- 14.9.8. Once the hearing is scheduled, requests to reschedule the hearing must be submitted in writing to the Title IX Coordinator and will be considered by the Hearing Panel/Non-affiliated Hearing Officer and the Title IX Coordinator.
- 14.9.9. The Complainant and Respondent will be notified of the composition of the Hearing Panel or the identity of Non-affiliated Hearing Officer for their hearing. Within five (5) business days of this notification, the Complainant and Respondent have the opportunity to object to a panel member or the Non-affiliated Hearing Officer for cause. The objection should be made in writing. The Title IX Coordinator, in consultation with the members of the panel, will consider any objection and replace the panel member or the Non-affiliated Hearing Officer if appropriate.

14.9.10. Both parties may bring an advisor of their choosing; this advisor may be an attorney, provided by the party and at no cost to the University.

14.9.11 No later than five (5) business days prior to the hearing, all materials that will be used at the hearing must be submitted to the Title IX Coordinator, who will forward the materials to the Hearing Panel/Non-affiliated Hearing Officer and will simultaneously make available for inspection or provide the materials to both parties. The materials must include:

a. Any documents or tangible evidence that will be used during the hearing;

a.b. The names of any witnesses and a brief summary concerning the subject matter of the witness's expected testimony

b.c. The name of any advisor to be in attendance at the hearing and whether that person is an attorney

14.9.142. No advisor, witness, or document/tangible evidence will be permitted at the hearing unless such information was timely submitted.

14.9.123. It is the responsibility of the party wanting to present a witness to secure that witness.

14.10. Step Ten: Hearing

14.10.1. Prior to the beginning of a hearing, the members of a Hearing Panel will select a Chairperson for the hearing.

14.10.2. The general course of the hearing procedure will be as follows, subject to the discretion of the Panel chairperson/Non-affiliated Hearing Officer:

a. The Panel chairperson/Non-affiliated Hearing Officer will convene the hearing, introduce the individuals present, give a brief description of the process, ~~and~~ invite questions about the process, and allow the parties the opportunity to present a brief opening statement.

b. The appellant shall present their evidence (including calling and questioning their own witnesses) to the Panel. If the other party participates, they shall have the same opportunity to present their evidence.

c. EOS shall present their documentation related to the finding to the Panel/Non-affiliated Hearing Officer;

- d. The Panel chairperson/Non-affiliated Hearing Officer will allow the parties the opportunity to present a brief closing statement before concluding the hearing.
- 14.10.3. During the hearing, the Panel Chairperson/Non-affiliated Hearing Officer may impose the following guidelines:
- a. The Panel chairperson/Non-affiliated Hearing Officer may impose reasonable time limits on any stage of the hearing.
 - b. The Panel chairperson/Non-affiliated Hearing Officer may also determine the relevance of, and place restrictions on, any witness or information presented.
- 14.10.4. The Panel chairperson and/or Panel/Non-affiliated Hearing Officer may question any individual at any time during the hearing.
- 14.10.5. The parties may question their own witnesses, but they cannot directly question each other or the other party's witnesses.
- 14.10.6. The parties may request that the Panel chairperson/Non-affiliated Hearing Officer ask questions of the other party or their witnesses by submitting proposed questions to the Panel chairperson in writing either prior to, or during, the hearing.
- 14.10.7. The Panel chairperson/Non-affiliated Hearing Officer may determine which questions are relevant, and the Panel chairperson/Non-affiliated Hearing Officer has the discretion to revise a question or to decline to ask the question.
- 14.10.8. The appellant may withdraw an appeal by submitting a request in writing to the Title IX Coordinator prior to the scheduled start of the hearing. A withdrawn appeal will conclude the matter.
- 14.10.9. In cases where an appellant refuses to participate in the hearing, the Panel/Non-affiliated Hearing Officer will convene and make a decision based on the evidence and testimony available to the Panel/Non-affiliated Hearing Officer.
- 14.10.10. This hearing process is an internal University process and not a formal courtroom process in which rules of evidence and courtroom procedures apply.
- ~~14.10.11. The appellant may bring an advisor of their choosing who may be an attorney.~~

14.10.~~12~~11. Advisors may attend the hearing and sit with their advisee during the hearing, communicate quietly orally and/or in writing with their advisee during the hearing, and may respond to a direct question from the Panel/Non-affiliated Hearing Officer.

14.10.~~13~~12. An advisor will not be permitted to speak on behalf of the advisee, make an oral presentation, including an opening or closing argument, or ~~to~~-question witnesses, the EOS representative, or the Panel/Non-affiliated Hearing Officer during the hearing.

14.11. Step Eleven: Panel Decision

14.11.1. After the hearing has concluded, the three voting members of the Panel will deliberate in private.

14.11.2. The Panel's decision will be by majority vote.

14.11.3. The Panel/Non-affiliated Hearing Officer can make the following decisions:

- a. Affirm the original finding
- b. Remand the case back to EOS to correct an error

14.11.4. The Panel/~~Non-affiliated Hearing Officer~~ will communicate its decision by completing the Hearing Decision Form and forwarding it to the Title IX Coordinator within three (3) business days of the hearing. If the decision is to remand the case to EOS to correct an investigative error(s), the Panel/Non-affiliated Hearing Officer will indicate the error(s) to be corrected.

14.11.5. The Title IX Coordinator will then provide a copy of the decision simultaneously to all parties involved in the complaint.

14.12. Step Twelve: Notification of Outcomes

14.12.1 The Title IX Coordinator and/or EOS will simultaneously notify the Complainant and the Respondent in writing of the outcome of the following stages of the process:

- a. The initial finding~~s~~, including a rationale
- b. The procedures to appeal a finding
- c. The outcome of any appeal, including any changes to the finding
- d. Any interim sanctions imposed

- e. Any changes to interim sanctions
- f. The final outcome of the complaint
- g. Any imposed sanctions, including a rationale
- h. When the outcome is final
- i. Changes to sanctions related to the party once the outcome is finalized

14.12.2. These notifications may be combined if they occur at the same time.

14.12.3. In the case of a complaint alleging ~~d~~Dating or ~~d~~Domestic ~~v~~Violence, ~~n~~Non-consensual ~~s~~Sexual ~~e~~Contact, ~~s~~Sexual ~~a~~Assault, or ~~s~~Stalking, both parties will be notified of all imposed sanctions.

14.12.4. In the case of a complaint alleging ~~s~~Sexual ~~h~~Harassment, Sexual Exploitation or Sexual Intimidation, the Complainant will be notified of any sanctions that directly relate to the Complainant.

14.12.5. A Complainant will always be notified of any individual remedies offered or provided to the Complainant and if a hostile environment was found to exist, any additional steps the University has taken to eliminate the hostile environment, ~~if one was found to exist~~, and to prevent recurrence.

15. Special Provisions

15.1. Immunity

To encourage reporting, the University may offer alleged victims and witnesses of Sexual Misconduct amnesty-immunity for collateral misconduct provided such misconduct is of a non-violent nature, University policy violations, such as unauthorized use of alcoholic beverages, ~~related to the incident~~. The University may impose educational responses rather than sanctions, in such cases. Decisions regarding amnesty-immunity are made by the Title IX Coordinator in conjunction with the appropriate sanctioning body.

15.2. Allegations Involving University-Affiliated Organizations

15.2.1. If a report is made alleging that a University-~~a~~Affiliated organization has violated this Policy, EOS will make a referral to the appropriate administrative department and/or adjudicative body over that organization to ensure a timely, equitable process to determine if an Organization violated relevant University policies.

- 15.2.2. EOS will work in partnership with the appropriate adjudicative body should there be concurrent investigations involving individuals and organizations, including, but not limited to, sharing information with appropriate University administrators who have a legitimate need to know.
- 15.2.3. If a report is made involving an organization, EOS will seek to identify any individuals who may be involved. EOS will, in collaboration with the alleged victim whenever possible, determine whether a formal complaint under this Policy will be filed against any identified individuals, ~~as per this Policy~~.

15.3. Non-Participating Alleged Victims

- 15.3.1. Alleged victims who decline to serve as a complainant as per Section ~~15~~14.1.2 will maintain certain rights as per this Policy.
- 15.3.2. When the University serves as a eComplainant, it will work with the alleged victim to the extent they would like to participate.
- 15.3.3. Non-complainant alleged victims do not have appeal rights as per this Policy.
- 15.3.4. Non-complainant alleged victims receive the same notifications as the Complainant and Respondent, ~~unless they request otherwise~~, as outlined in Section 15 of this Policy, unless they request otherwise.
- 15.3.5. Non-complainant alleged victims always maintain the right to reasonable interim measures as outlined in Sections ~~14~~12 and ~~15~~14.2 of this Policy.

15.4. Additional Interventions

- 15.4.1. When a report is received alleging a violation of this Policy, the University will take appropriate steps to assess whether additional actions, beyond a formal investigation and possible disciplinary sanctions, are appropriate.
- 15.4.2. These actions may be implemented regardless of whether a formal complaint is filed and regardless of whether a finding of a violation is made.
- 15.4.3. Actions may respond to the specific needs of impacted persons and/or may address the needs of the University community.

15.4.4. Actions may include extending interim measures provided to impacted persons such as those listed in Sections ~~14~~12 and ~~15~~14.2 or new actions taken the respond to immediate and long-term concerns regarding personal safety, academic success, and emotional well-being.

15.4.5. Actions ~~may to~~ address the needs of the University community may include but ~~is are~~ not limited to training (~~-,~~both targeted training and campus-wide programs), campus safety assessments, campus climate surveys, and evaluation of policies and procedures.

15.5. Reports Outside of University Jurisdiction

If the University is notified that a member of the University community has reported an incident of Sexual Misconduct, but the action occurred outside of the University's jurisdiction, the University will still take reasonable steps to ensure the individual's safety while on campus and to offer the individual information about resources both on campus and in the community.

15.6. Training

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

15.6.2. Members of the Hearing Board will receive training at least annually on the issues related to Sexual Misconduct. ~~-~~ These individuals will also receive training on the role of EOS to enforce this Policy, best practices for hearings and hearing panelists, and ~~how~~ their role ~~is to in~~ ensuring and promoteing safety, due process, and accountability.

15.6.3. The University will provide training for all incoming students and new employees that increase their knowledge about this Policy, their rights, and resources, as well as strategies to prevent violence, promote safety, and reduce perpetration. Employees will receive initial mandatory training within thirty (30) days after their hire date and supplemental training every two (2) years.

15.6.4. The University will provide on-going prevention and awareness campaigns for students and employees that will increase their knowledge about this Policy, their rights and resources, as well as strategies to prevent violence, promote safety, and reduce perpetration.

16. REVIEW AND RESPONSIBILITY

Responsible Party: Vice Chancellor for Legal Affairs and General Counsel

Review: Every three years on or before August 31

17. APPROVAL

Approved: [Dona Cornell](#)
 Vice Chancellor for Legal Affairs and General Counsel

[Renu Khator](#)
 Chancellor

Date: [June 29, 2016](#)

REVISION LOG

Revision Number	Approval Date	Description of Changes
Interim	11/29/2012	Initial version (submitted as Interim)
Interim 2	08/07/2013	Added information to Section 1.2 on educational programs. Added Campus SaVE Act statement to Section 1.5. Revised Section 2.4 definition for “Student.” Added additional parameters of Sexual Misconduct to Section 3. Revised Section 4 to be consistent with the Dear Colleague Letter. The web site definition for consent was added to Section 5.1, and the web site definition for sexual assault was added to Section 6.1. Sections 6.5 through 6.7 were added with information from the Campus SaVE Act. Added Section 8, Risk Reduction Strategies, including documentation on bystander intervention from the Campus SaVe Act. Information on confidentiality and services available to victims was added to Section 9 from the Campus SaVE Act. Added “Order of Protection” phrase to Section 10 from the Campus SaVE Act. Documentation on EOS investigator training was added to Section 12.3. Added Section 12.6.4. Added information on Board training to Section 13.7. A brief opening statement for hearings was added to Section 13.9.1.a. Added

		documentation on reporting offenses off campus to Section 14.3. Added information to Section 14.5 on notification of outcomes from the Violence Against Women Reauthorization Act of 2013 and the Campus SaVE Act
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Revision Number	Approval Date	Description of Changes
1	08/25/2015	Current revisions after Interim 2 approved by the Board of Regents (BOR) during meeting on August 20, 2015, based on input from team composed of various system component members. Requirement for document approval prior to September 1, 2015 based on state law changes
2	12/04/2015	Revisions from BOR approval on August 20, 2015 include all current information regarding sexual misconduct policy guidelines from Texas Penal Code Title 5, Offenses Against the Person. Changed numbering in Section 14 through Section 19
3	06/29/2016	Updated Section 2.8 with hyperlink to the component campus Title IX Coordinators. Updated links as applicable
<u>4</u>	<u>TBD</u>	<p><u>Added Sexual Intimidation to Section 1.1. Updated Sexual Activity definition in Section 2.5. Updated contact information in Section 2.8. Included Sexual Intimidation as an offense in Section 2.6; explicitly included cyberstalking in Section 6.5. Added to definition of consent in Section 4.1, and revised showing consent in Section 4.6. Added examples for Sexual Assault in Section 6.3. Added Sexual Intimidation in Section 6.5. Revised Section 7.1 on reporting to University entities. Added extensive information on reporting rights, including Sections 7.5, 7.6, and 7.7. Rearranged documentation for Section 8, Required Reporting, and Section 9, Anonymous Reporting. Added Section 10.9 on the Clery Act, and Section 10.10 on accommodations being confidential. Added medical care to prevent sexually transmitted infections and/or pregnancy in Section 12.1. Removed Cinco Ranch and added UH – Katy Campus information to Section 12.2. Added Section 12.4 on written notification of resources, and Section 12.6 on resolution agreement. Added Section 14.1.4 on opportunities to have others present to any related meeting or proceeding; and Section 14.1.8 for possible decline to pursue a complaint based on a valid claim. Added disqualification from student leadership positions in Section 14.6.2. Both parties may bring an advisor or attorney to the hearing in Section 14.9.10. Added documents and tangible evidence to Section 14.9.11.a. Updated the immunity reporting information in Section 15.1. Added employee mandatory training within thirty (30) days of hiring date and supplemental training every two years to Section 15.6.3</u></p>