

The University of North Texas at Dallas Policy Manual	Chapter 5
5.036 Prohibition of Sexual Misconduct and Retaliation	Human Resources

I. Policy Statement

The University of North Texas at Dallas is committed to maintaining safe and respectful work and educational environments that are conducive to students, faculty and staff achieving their full potential and that allow all individuals to fully participate in the benefits and privileges UNT Dallas has to offer – free from sexual harassment, sexual violence or misconduct of any kind, or retaliation for assisting UNT Dallas in maintaining these environments. Conduct that is inconsistent with this commitment, even if it is infrequent or not severe, is unacceptable at any location, program or other activity associated with UNT Dallas.

II. Application and Scope

This policy applies to all students, faculty, staff, applicants for employment or admission, individuals and organizations conducting business on behalf of or for UNT Dallas, visitors and participants at any location, program or other activity associated with UNT Dallas. The University may act under this policy when prohibited conduct that occurs off-campus effects or has a reasonable likelihood to adversely affect the academic or work environment.

III. Definitions

1. Complainant. An individual who may have been the subject of conduct prohibited under this policy regardless whether she or he reports the conduct.
2. Consent. Words or actions that show an active, knowing and voluntary agreement to engage in sexual activity.
3. Days. Days shall mean calendar days unless otherwise stated in the policy.
4. Domestic Violence. An act of violence committed against a family member, a household member or someone the individual is currently dating or dated in the past including a current or former spouse, a child of a current or former spouse, a person with whom the individual has a child or children, a child of the individual, a family member of the individual by blood, marriage or adoption, someone with whom the individual lives or a person with whom the individual has or had an ongoing dating or romantic relationship.
5. Employee. An individual who is employed part-time, full-time, or in a temporary capacity as faculty, staff, or individuals who are required to be students as a condition of their employment.

6. Faculty. A person whose primary responsibilities at UNT Dallas are teaching, research or creativity activity, and service, including professional librarians. For purposes of this policy, this definition also includes Teaching Fellows and Teaching Assistants except where otherwise stated in this policy.
7. Gender. An individual's socially-constructed status based on the behavioral, cultural, or psychological traits typically associated with societal attribution of masculinity and femininity, and typically related to one's assigned sex at birth.
8. Gender Expression. The manner in which an individual expresses gender through appearance, behavior, or mannerisms, whether the person's expression is the same as the individual's gender identity or the sex the individual was assigned at birth.
9. Gender Identity. The gender with which an individual identifies psychologically, regardless of the sex the individual was assigned at birth.
10. Good Faith. A reasonable belief that the reported conduct was a violation of this policy. Good faith is based on the reporting individual's education, training, and experience.
11. Preponderance of the Evidence. The amount of information necessary to establish whether an allegation is more likely than not to have occurred (i.e., more likely true than not true). Preponderance of the evidence is also referred to as the greater weight of the evidence.
12. Respondent. An individual or organization identified as possibly having engaged in conduct prohibited under this policy regardless of whether a formal complaint has been made.
13. Retaliation. Any action, treatment or condition likely to dissuade a reasonable person from reporting or causing to report or participating in an investigation of a suspected violation of this policy, from filing a criminal complaint, or from accessing services provided under this policy, including an action that affects an employee's compensation, promotion, transfer, work assignment, or performance evaluation.
14. Sexual Assault. The intentional or knowing 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 consent of the complainant. The term sexual assault also is referred to as rape.
15. Sexual Harassment. Unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, disparagement of members of one sex, or other conduct of a sexual nature, even if said in a joking manner, when:
 - a. submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational environment;
 - b. submission to or rejection of such conduct is used as the basis for or as a factor in a decision affecting an individual's employment or educational environment;

- c. such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile or offensive employment or educational environment; or
- d. the conduct, even if it is infrequent or not severe, is such that the individual who is subjected to the conduct and a reasonable employee would find the conduct sufficient to alter the terms, conditions, or privileges of the person's employment.

Sexual harassment takes many forms; examples of conduct that might be considered sexual harassment under this policy include but are not limited to:

- a. sexual exploitation of a relationship between individuals of unequal power and authority;
- b. sexual exploitation of a relationship between peers and students that could affect the workplace or educational environment;
- c. repeated and unwanted requests for dates, sexual flirtations, or propositions of a sexual nature;
- d. subtle pressure for a sexual relationship;
- e. sexual remarks about a person's clothing, body or sexual activities;
- f. unnecessary touching, patting, hugging, or brushing against a person's body;
- g. direct or implied threats that submission to sexual advances will affect or be a condition of employment, work status, grades, or letter of recommendation;
- h. physical or sexual assault or sexual violence;
- i. conduct of a sexual nature that causes humiliation or discomfort, such as use of inappropriate terms of address;
- j. sexually explicit or sexist comments, questions or jokes; and
- k. conduct of a sexual nature that creates a hostile work or educational environment.

Conduct constituting sexual harassment, as defined herein, toward another person of the same or opposite sex is prohibited by this policy.

- 16. Sexual Orientation. The inclination or capacity to develop intimate emotional, spiritual, physical, and/or sexual relationships with people of the same sex, a different sex, or irrespective of sex.
- 17. Stalking. A course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or to suffer substantial emotional distress. A course of conduct means two or more acts in which a person directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person or interferes with a person's property.
- 18. Student. An individual who has applied for admission or readmission to UNT Dallas; who is registered/enrolled in one or more courses for credit at UNT Dallas; or who currently is not enrolled at UNT Dallas but has a continuing academic relationship with UNT Dallas.
- 19. Title IX Coordinator. UNT Dallas employee designated by the President to implement, monitor, and enforce the UNT Dallas' Title IX program. In this policy, reference to the Title IX Coordinator also means her or his designee.

20. Unwelcome Conduct. Behavior or conduct that is not implicitly or explicitly invited by a person and the person regards the behavior or conduct to be undesirable or offensive at the time the behavior or conduct occurred.

IV. Reporting

A. Reporting Sexual Misconduct

- i. Law Enforcement. A person who believes she or he has been a complainant of sexual violence should immediately call 911 if the conduct is imminent or the UNT Dallas police department or local law enforcement officials. A person may file a police report with campus police for sexual violence occurring on campus or with local police for sexual violence occurring off campus.
- ii. System Office of Equity, Diversity, and Inclusion. An individual who believes she or he has been subjected to sexual harassment should immediately report the conduct to her or his immediate supervisor, unless that person is the one alleged to have engaged in the harassment, and to the System Office of Equity, Diversity, and Inclusion or the Title IX Coordinator.
- iii. Title IX Coordinator. A student who believes she or he has been subjected to sexual harassment should immediately report the conduct to the Office of the Dean of Students (Title IX Coordinator). Reports will be confidential as set out in this policy.
- iv. Hotline. Individuals wishing to remain anonymous may report suspected violations of this policy to the UNT System Compliance Hotline. Reports involving students will be referred to the Title IX Coordinator.

B. Reporting Obligations

- i. Employees and Individuals Acting on Behalf of the Organization. Employees and individuals authorized to act on behalf of UNT Dallas who become aware of suspected sexual harassment, sexual violence, or retaliation are required to immediately report the suspected violation to his or her direct supervisor and to the System Office of Equity, Diversity, and Inclusion. If a direct supervisor is the person alleged to have engaged in the inappropriate conduct, the report must be made to that individual's supervisor and to the System Office of Equity, Diversity, and Inclusion. In no instance is an individual required to report the alleged violation to the person suspected of the inappropriate conduct.
- ii. Other Individuals. Other individuals, including students and guests of UNT Dallas who become aware of suspected sexual harassment, sexual violence, or retaliation, are strongly encouraged to report the suspected violation to the System Office of Equity, Diversity, and Inclusion or to the Title IX Coordinator.
- iii. Exception to Obligation to Report. Employees who receive a report of sexual harassment or sexual violence in the course of performing their official UNT Dallas

responsibilities and who, as a requirement of a professional license, are prohibited from disclosing confidential communications, are not obligated to report as set out in this policy. These individuals are expected to report as required by the rules of their professional license and nothing in this policy shall be interpreted as conflicting with those rules.

C. Protection Against Retaliation

Retaliation against any person who reports or encourages another to report sexual harassment, sexual violence, or retaliation; who participates in an investigation conducted under this policy; or who seeks assistance or guidance from any University department or external official or organization authorized to remediate conduct prohibited under this policy is strictly prohibited.

V. Confidentiality

- A. Confidentiality. UNT Dallas shall make every effort to protect information that reasonably could lead to the identification of an individual who reports or who participates in an investigation of alleged sex harassment, sexual violence, or retaliation, and information that reasonably could identify the individual. This information is confidential and shall not be disclosed except as required by law, including when disclosure is necessary to ensure individuals accused of violating this policy are afforded lawful notice and the opportunity to fully respond to the accusation.
- B. Protection of Non-Confidential Information. As permitted by section 51.971 of the Texas Education Code, information may be protected from disclosure even if it is not confidential if the information is collected or produced as part of an investigation conducted under this policy and disclosing the information would interfere with an ongoing investigation.
- C. Authorized Disclosure of Information. Confidential information and information that is protected from disclosure under this policy may be released:
 - i. with the written and signed consent of the individual whose identity would be disclosed;
 - ii. to law enforcement agencies or prosecutors;
 - iii. to federal and state agencies responsible for investigating sexual harassment, sexual violence, sexual misconduct or retaliation;
 - iv. to notify a complainant and respondent of the outcome of an investigation, including sanctions imposed for violating this policy;
 - v. to allow the University to take effective protective measures; or
 - vi. as required by lawfully issued subpoena or otherwise authorized by law.

VI. False Reports

Any individual who makes a false report under this policy is subject to disciplinary action. A report is not false or made in bad faith simply because an investigation determines the allegation was not substantiated.

VII. Investigation of Allegations and Interim Measures

- A. Reviewing Reports. Allegations of sexual harassment, sexual violence, and retaliation reviewed by the System Office of Equity, Diversity, and Inclusion shall include a determination of whether an investigation should be conducted regardless of whether a written complaint is filed. Reports of sexual harassment, sexual violence, and retaliation made directly to law enforcement officials do not have to be reported to the System Office of Equity, Diversity, and Inclusion for review. In addressing reports of sexual harassment, sexual violence, and retaliation, law enforcement will determine whether to notify the System Office of Equity, Diversity, and Inclusion. The System Office of Equity, Diversity, and Inclusion shall consult the complainant of the alleged offense, if the individual's identity is known, before recommending interim remedial measures or before initiating an investigation. This consultation must include informing the individual that:
- i. she or he may file a criminal complaint with law enforcement officials at any time;
 - ii. the University has an obligation to remediate sex harassment and other sexual offenses and that an investigation may be conducted whether or not a criminal complaint is filed;
 - iii. the University can take measures to protect against continued misconduct and retaliation;
 - iv. voluntary withdrawal of an allegation will not necessarily result in termination of an investigation; and
 - v. she or he should contact the System Office of Equity, Diversity, and Inclusion if retaliation is suspected.
- B. Interim Measures to Protect Complainants, Respondents, and Other Individuals. The University may take administrative action to protect the complainant, the respondent, and any other individual against prohibited conduct or allegations, or to ensure the prompt and efficient completion of an investigation. Interim measures are not disciplinary in nature and must be consistent with other University policies. Interim measures may be initiated only after consultation with Human Resources, the Office of General Counsel, and the Title IX Coordinator, as appropriate, and may include but are not limited to placing the faculty or staff employee who is accused of violating this policy on administrative leave with pay, temporarily modifying work schedules and assignments, and suspending business relationships.
- C. Investigating Reports. All allegations of sexual harassment, sexual violence, and retaliation that the System Office of Equity, Diversity, and Inclusion determines to be credible, shall be investigated promptly. If the complainant of the alleged offense asks the University not to investigate or to delay investigating the allegation or that the person who allegedly violated the policy not be notified of the allegation, the System Office of Equity, Diversity, and Inclusion shall inform the individual, in writing, of the University's obligation to meaningfully investigate and respond appropriately to the allegation and that honoring the request could compromise its ability to do so. In determining whether the request can be granted, the System Office of Equity, Diversity, and Inclusion shall consider the following factors:
- i. the seriousness/nature of the allegation;
 - ii. whether the alleged behavior or conduct presents a threat to individuals other than the person who is making the request;
 - iii. whether effective measures can be put in place to protect the individual against continued physical or psychological harm or retaliation;
 - iv. whether delaying an investigation could reasonably result in the destruction or deterioration of potential evidence to corroborate or refute the allegation; and

- v. any other information that has a reasonable bearing on the decision.

Individuals will be informed in writing if the request to not take or to delay action is not granted. The notice should include the factors considered in making the decision.

- D. Obligation to Participate in Investigations Under this Policy. Individuals are expected to be cooperative in investigations conducted under this policy, and any person who knowingly interferes with an investigation is subject to disciplinary sanctions. Interference with an investigation includes, but is not limited to:
 - i. Attempting to coerce, compel, or prevent an individual from providing information related to the investigating;
 - ii. Removing, destroying, or altering information that relates to the investigation; or
 - iii. Providing false or misleading information in the course of an investigation or encouraging others to do so.

VIII. Procedures for Grievance and Review of Reports

- A. Timeline and Notifications. Investigations will be completed within a reasonable time, generally not to exceed 45 days except in exceptional circumstances as determined by the System Office of Equity, Diversity, and Inclusion.
- B. Procedures for Resolving Complaints of Sexual Harassment, Sexual Violence or Retaliation Involving a Student. The Title IX Coordinator is responsible for investigating reports of sexual harassment, sexual violence and retaliation involving students. The Family Educational Rights and Privacy Act (FERPA) do not protect student employees who, pursuant to this procedure, are named respondents. When the alleged offender is an employee, visitor, or individual acting on behalf of or doing business with UNT Dallas, the Title IX Coordinator must consult with the System Office of Equity, Diversity, and Inclusion in advance of issuing a report of investigation.
- C. Procedures For Pursuing and Resolving a Complaint of Sexual Harassment, Sexual Violence or Retaliation Not Involving a Student (includes Employee, Visitor, or Individual Acting on Behalf of or Doing Business with UNT Dallas):
 - i. The complainant and respondent shall receive notice of the allegation and periodically be informed of the status of the review or investigation.
 - ii. The respondent shall be given an opportunity to respond both orally and in writing to the allegations and to any evidence against her or him prior to a determination that this policy has been violated. Any response must be provided within seven (7) calendar days of notification by the System Office of Equity, Diversity, and Inclusion that it is prepared to finalize its report of investigation.
 - iii. The complainant shall be given an opportunity to respond both orally and in writing to information provided by the respondent before the investigation is completed. Any response must be provided within seven (7) calendar days of notification by the System

Office of Equity, Diversity, and Inclusion that it is prepared to finalize its report of investigation.

- iv. The System Office of Equity, Diversity, and Inclusion must consult with the Office of General Counsel before issuing a report of investigation.
- v. The System Office of Equity, Diversity, and Inclusion shall prepare a written report setting out the findings of the investigation and whether the respondent violated this policy.
- vi. The complainant, respondent, and the respondent's supervisor(s) (when the respondent is an employee) shall be notified, in writing, of the System Office of Equity, Diversity, and Inclusion's findings and determination, and be provided a summary of the investigation within five (5) business days after the report of investigation is completed. The Vice Chancellor of Human Resources will determine whether another University official will be notified when the respondent is a visitor or person acting on behalf of UNT Dallas.
- vii. Respondents found to have violated this policy may request a review of the findings and determination from the Vice Chancellor of Human Resources.
- viii. A request for review must be submitted to the reviewing official within five (5) business days from the date of the notice. The request must include the reason(s) for the review and provide any new information the individual wishes the reviewing official to consider. The decision of the reviewing official regarding the finding and determination is final.
- ix. Staff employees found to have violated this policy may file a grievance under Policy 5.005 concerning any disciplinary action taken as a result of the investigation.
- x. Faculty members, other than Teaching Fellows and Teaching Assistants, found to have violated this policy may file a grievance concerning any disciplinary action taken as a result of the investigation in accordance with department and college grievance procedures and the University's Policy 6.011. Teaching Fellows and Teaching Assistants may use the staff grievance process.

IX. Record Retention

Unless otherwise required by state law or the University's Records Retention Policy, records of complaints and investigations will be confidentially maintained by the University Archivist and discarded after 10 years unless other incidents occur within the 10 years. In all cases, access to complaint and investigation records is strictly limited to those university officials directly investigating or adjudicating a complaint or implementing a complaint resolution, unless otherwise compelled by law.

X. Education and Resources

- A. New Employee Education and Training. New employees shall receive training on the University's Title IX program and this policy no later than the 30th day after employment. At a minimum, training must include: obligations under Title IX, Title VII, the Violence Against

Women's Act and this policy; the name and contact information for the Title IX Coordinator, the procedures for reporting sexual harassment and other violations of this policy; the University's prevention and awareness program and ongoing prevention and awareness campaigns; the rights of individuals who report being a complainant of sexual violence regardless of whether the offense occurred in the workplace; and the availability of interim measures to protect against continued violations of this policy and all remedies, including civil action, for violations of Title VII and Title IX.

- B. Supplemental Education and Training. Every employee is individually responsible for completing the training described in subparagraph A of this section every two years.
- C. Record and Notification of Education and Training. Supervisors are responsible for ensuring employees under their supervision are in compliance with the education and training requirement and certifying to the Title IX Coordinator when each employee completes requirement. In addition, supervisors shall clearly note on the employee's annual performance evaluation whether training has been completed.
- D. Enforcement of Training Responsibilities. An employee who fails to complete education and training as required under this section may be subject to discipline according to applicable UNT Dallas policies.
- E. Resources and Services. The experience of sexual violence has different meanings for each person. Prompt intervention can help to lessen the trauma and enhance healing. Resources and services can be found on the University's Human Resources web site.

XI. Sanctions and Legal Implications

Any violation of this policy may result in sanctions imposed by the University or federal or state authorities, or legal action.

- A. University Imposed Sanctions. Any individual who violates this policy is subject to disciplinary action, including but not limited to: involuntary termination of employment under the Staff Employment and Discipline Policy; revocation of tenure for moral turpitude or gross neglect of academic responsibilities under the University's Policy 6.011; expulsion from the University; and termination of a business relationship, the privilege to come onto University property or to participate in its programs and activities. Sanctions imposed for violating this policy must be reported to the System Office of Equity, Diversity, and Inclusion
- B. Federal or State Sanctions. Federal or State agencies may impose fines and other sanctions against the University for violations of federal or state anti-harassment laws.
- C. Civil Action. Individuals may take court action against individuals and the University that could result in financial liability.
- D. Criminal Sanctions. Sexual harassment by a public servant is a criminal offense under Texas law and could result in imprisonment.

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