

# Texas Tech University System

## Regulation 07.06.B

### Non-Title IX Sexual Misconduct

Effective: August 14, 2020

Modified: March 30, 2021

Next Scheduled Review: December 2021

#### 1. Applicability

- a. This regulation applies to all Sexual Misconduct (as defined in Section 4.n, below) except Title IX Sexual Misconduct, which is defined in and governed by [System Regulation 07.06.A](#).
- b. [Attachment 1](#) to this regulation visually depicts and summarizes the applicability of System Regulations 07.06.A and 07.06.B. In the event of any conflict between the attachment and these regulations, the text of the regulations shall control.

#### 2. Purpose

- a. This regulation provides information regarding the Texas Tech University System and its component institutions' (referred to herein collectively as "University") prevention and education efforts related to sex discrimination, Sexual Harassment, Nonconsensual Sexual Contact, Nonconsensual Sexual Intercourse, Sexual Assault, Sexual Exploitation, Public Indecency, Sexual Misconduct, Interpersonal Violence, Dating Violence, and Stalking. This regulation provides students and employees with their rights and options and also explains how the University will proceed once it is made aware of allegations of prohibited conduct in keeping with the University's values and in order to meet the legal obligations of Title VII, Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), the Texas Education Code, 34 CFR Part 106, and other applicable laws and regulations.

#### 3. Policy

- a. The University is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. The University prohibits discrimination based on sex, which includes pregnancy, sexual orientation and gender identity, and other types of Sexual Misconduct. Sexual Misconduct is a broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes Sexual Harassment, Sexual Assault, Sexual Exploitation, Stalking, Public Indecency, Interpersonal (Dating, Domestic, or Family) Violence, Dating Violence, Sexual Violence, and any other misconduct based on sex. Any acts that fall within the scope of this regulation hereinafter are referred to as Sexual Misconduct. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, by actions, or electronically displayed or conveyed. Each University shall adopt this regulation through an Operating Policy and Procedure expressly referencing this regulation.
- b. This regulation applies to all University students and University employees, visitors, applicants for admission to or employment with the University, as well as University affiliates and others conducting business on University campuses. This regulation will apply to on-campus and off-campus conduct of which the University is made aware and which

adversely impacts the educational and employment environments of the University. The University will take all reasonable steps to respond to and prevent recurrence of any Sexual Misconduct and remedy discriminatory effects on the Complaining Party and others, if appropriate.

- c. All investigations and procedures will be non-adversarial in nature and will be conducted in a prompt, equitable, and impartial manner. Investigations conducted under this regulation are not criminal investigations. For all complaints under this regulation, the burden of proof shall be a preponderance of the evidence, which means more likely than not.
- d. The University expects all members of the University Community to comply with applicable law and University policies. Members of the University Community who violate this regulation and related laws may be subject to disciplinary action or sanctions, up to and including termination of employment, expulsion from the University, or being barred from University premises and events. To the extent there is no conflict with applicable federal or Texas law, termination of tenured faculty will be subject to the procedures outlined in the University's policies regarding revocation of tenure.
- e. For complaints relating to Title IX Sexual Misconduct, please see [System Regulation 07.06.A](#). For complaints relating to any form of discrimination not covered by this System Regulation 07.06.B or System Regulation 07.06.A, or for acts of gender/sex discrimination, such as denial of employment, wages, or benefits based on gender/sex, that are not sexual in nature and do not constitute Sexual Misconduct as defined in this regulation or Title IX Sexual Misconduct as defined in System Regulation 07.06.A, please see [System Regulation 07.10](#). Additionally, if at any time during a Sexual Misconduct grievance process under this regulation it is determined that the alleged conduct constitutes Title IX Sexual Misconduct, the University shall proceed under System Regulation 07.06.A or any other applicable policy and procedure.

#### 4. Definitions

For purposes of this regulation, the definitions below apply. However, some of these terms are also defined under state law. If an individual would like to file criminal charges for any alleged violations of criminal law, the definitions as set forth in state law may apply.

- a. *Complaining Party*. An individual who was allegedly subjected to a violation of this regulation.
- b. *Consent*. Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly convey permission for a specific activity. Consent is not effective if it results from: (i) the use of physical force, (ii) a threat of physical force, (iii) intimidation, (iv) coercion, (v) incapacitation, or (vi) any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to engage in sexual activity.
- c. *Employee*. An individual who receives a W-2 or 1042-S from the University, including full- and part-time faculty, staff, and students. An Employee is working in the course and scope of their employment if the Employee is performing duties in the furtherance of the University's interest.
- d. *Incapacitation*. A state of being that prevents an individual from having capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, an individual being asleep or unconscious, or because of an intellectual or other disability.

- e. *Interpersonal Violence*. For purposes of this regulation, Interpersonal Violence is:
- i. *Dating Violence*. Physical, sexual, or verbal abuse or violence, or a threat of abuse or violence, committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the Complaining Party. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the individuals involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.
  - ii. *Domestic or Family Violence*. Physical, sexual, or verbal abuse or violence committed by a current or former spouse or intimate partner of the Complaining Party, by an individual with whom the Complaining Party shares a child in common, by an individual with whom the Complaining Party is cohabiting (or has cohabited) with a spouse or intimate partner, by an individual similarly situated to a spouse of the Complaining Party under the Domestic or Family Violence laws of the state of Texas, or by any other individual against an adult or youth victim who is protected from that individual's acts under the Domestic or Family Violence laws of the state of Texas.
- f. *Public Indecency*. Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency including, but not limited to: (i) exposing one's genitals or private areas; (ii) public urination; (iii) public defecation; and/or (iv) public sex acts.
- g. *Reporting Party*. An individual or entity (in the case of the University), other than the Complaining Party, who reports an alleged violation of this regulation.
- h. *Responding Party*. Generally, the Responding Party is the individual or organization that is alleged to be responsible for the prohibited conduct alleged in a complaint.
- i. *Responsible Employee*. All Employees, except as provided in Section 6 below, are Responsible Employees who must report allegations of Sexual Misconduct, including all known information concerning the incident, to the Title IX Coordinator as provided in Section 6 below.
- j. *Sex Discrimination*. An act that deprives a member of the University Community of their right of access to campuses and facilities and/or of participation in education, services, programs, operations, employment, benefits, or opportunities with the University on the basis of the individual's sex.
- k. *Sexual Assault*. Sexual contact or intercourse with an individual without that individual's consent, including sexual contact or intercourse against an individual's will or in a circumstance in which an individual is incapable of consenting to the contact or intercourse. Sexual Assault includes:
- i. *Nonconsensual Sexual Contact*. Intentional sexual touching, however slight, with any object or part of one's body of another's private areas without consent. Sexual Contact includes: (1) intentional contact with the breasts, buttock, groin, or genitals; (2) touching another with any of these body parts; (3) making another touch you or themselves with or on any of these body parts; or (4) any other intentional bodily contact in a sexual manner.

- ii. *Nonconsensual Sexual Intercourse*. Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.
- iii. The following offenses are examples of Sexual Assault:
  - 1. *Incest*. Sexual intercourse between individuals who are related to each other within the degrees wherein marriage is prohibited by law;
  - 2. *Fondling*. The touching of the private body parts of another individual for the purpose of sexual gratification, without the consent of the Complaining Party, including instances where the Complaining Party is incapable of giving consent because of the Complaining Party's age or because of the Complaining Party's temporary or permanent mental incapacity;
  - 3. *Rape*. The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another individual, without the consent of the Complaining Party; and
  - 4. *Statutory Rape*. Sexual intercourse with an individual who is under the statutory age of consent.
- l. *Sexual Exploitation*. Taking nonconsensual or abusive sexual advantage of another for the benefit of oneself or a third party. Prohibited behavior includes, but is not limited to: (i) purposeful recording, distribution, or dissemination of sexual or intimate images or recordings of another individual without that individual's full knowledge or consent; (ii) sexual voyeurism; (iii) inducing another to expose one's genitals or private areas; (iv) prostituting another; and (v) knowingly exposing someone to or transmitting a sexually transmitted disease, without the individual's full knowledge and consent.
- m. *Sexual Harassment*. Unwelcome, sex-based verbal or physical conduct that:
  - i. In the employment context, unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. To constitute an intimidating, hostile, or offensive working environment, the complained of conduct must be either severe, persistent, or pervasive; or
  - ii. In the education context, is sufficiently severe, persistent, or pervasive that the conduct unreasonably interferes with a student's ability to participate in or benefit from educational programs or activities.
  - iii. Examples of inappropriate behavior that may constitute Sexual Harassment include, but are not limited to: (1) sexual teasing, jokes, remarks, or questions; (2) sexual looks and gestures; (3) sexual innuendoes or stories; (4) communicating in a manner with sexual overtones; (5) inappropriate comments about dress or physical appearance; (6) inappropriate discussion of private sexual behavior; (7) gifts, letters, calls, emails, online posts, or materials of a sexual nature; (8) sexually explicit visual material (calendars, posters, cards, software, internet, or other multimedia materials); (9) sexual favoritism; (10) pressure for dates or sexual favors; (11) unwelcome physical contact (touching, patting, stroking, rubbing); (12) nonconsensual video or audio-taping of sexual activity; (13) exposing one's genitals or inducing another to expose their genitals; (14) Stalking; (15) domestic or Dating Violence; (16) Nonconsensual Sexual Intercourse, Sexual Assault, or rape; and (17) other gender-based threats, discrimination, intimidation, hazing, bullying, Stalking, or violence.

- n. *Sexual Misconduct*. A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes Sexual Harassment, Nonconsensual Sexual Contact, Nonconsensual Sexual Intercourse, Sexual Assault, Sexual Exploitation, Stalking, Public Indecency, Interpersonal Violence, sexual violence, and other misconduct based on sex.
- o. *Stalking*. A course of conduct directed at a specific individual that would cause a reasonable individual to fear for the individual’s safety or the safety of others or would cause that individual to suffer substantial emotional distress. A “course of conduct” means two or more acts in which an individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about an individual or interferes with an individual’s property. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- p. *Supportive Measures*. Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complaining Party or the Responding Party before or after the filing of a complaint or where no complaint has been filed.
- q. *Title IX Sexual Misconduct*. Certain sexual misconduct as defined in and governed by [System Regulation 07.06.A](#).
- r. *University Community*. All University faculty, staff, and students of and visitors to any University premises or University-affiliated activity.

5. Contact Information for University Title IX Coordinators and the System Office of Equal Opportunity

- a. *University Title IX Coordinators (Students)*. Each University has a Title IX Coordinator who oversee the University’s compliance with Title IX. Students seeking information, to report sexual misconduct of any kind (including both Title IX Sexual Misconduct and Non-Title IX Sexual Misconduct), or to file a complaint of Sexual Misconduct, should contact the appropriate University Title IX Coordinator:

TITLE IX COORDINATOR EMAIL & PHONE	OFFICE ADDRESS	TITLE IX WEBSITE & REPORTING LINK
<b>Angelo State University:</b> Michelle Miller 325.486.6357 <a href="mailto:michelle.miller@angelo.edu">michelle.miller@angelo.edu</a>	Office of the President Mayer Administration Building 2601 W. Avenue N., Suite 210 San Angelo, TX 76909	<i>Title IX Website:</i> <a href="https://www.angelo.edu/title-ix">https://www.angelo.edu/title-ix</a> <i>Reporting Link:</i> <a href="https://www.angelo.edu/incident-form">https://www.angelo.edu/incident-form</a>
<b>Texas Tech University:</b> Kimberly Simon 806.834.1949 <a href="mailto:kimberly.simon@ttu.edu">kimberly.simon@ttu.edu</a>	Office of the President Administration Building Suite 115D, Box 42005 Lubbock, Texas 79409	<i>Title IX Website:</i> <a href="http://titleix.ttu.edu/">http://titleix.ttu.edu/</a> <i>Reporting Link:</i> <a href="https://cm.maxient.com/reportingform.php?TexasTechUniv&amp;layout_id=40">https://cm.maxient.com/reportingform.php?TexasTechUniv&amp;layout_id=40</a>
<b>Texas Tech University Health Sciences Center:</b> Leslie Collins 806.743.9861 <a href="mailto:leslie.collins@ttuhsc.edu">leslie.collins@ttuhsc.edu</a>	3601 4 <sup>th</sup> Street, UC Suite 330A, MS 6262 Lubbock, Texas 79430	<i>Title IX Website:</i> <a href="https://www.ttuhsc.edu/title-ix/">https://www.ttuhsc.edu/title-ix/</a> <i>Reporting Link:</i> <a href="https://cm.maxient.com/reportingform.php?TexasTechUnivHSCSS&amp;layout_id=10">https://cm.maxient.com/reportingform.php?TexasTechUnivHSCSS&amp;layout_id=10</a>

<b><i>Texas Tech University Health Sciences Center El Paso:</i></b> Linda Ellis 915.215.5439 <a href="mailto:linda.s.ellis@ttuhsc.edu">linda.s.ellis@ttuhsc.edu</a>	Office of Student Affairs Medical Education Building Room 2140D 5001 El Paso Drive El Paso, TX 79905	<i>Title IX Website:</i> <a href="https://el Paso.ttuhs.edu/gsb/catalo g/title-IX.aspx">https://el Paso.ttuhs.edu/gsb/catalo g/title-IX.aspx</a> <i>Reporting Link:</i> <a href="https://el Paso.ttuhs.edu/hr/_docume nts/TTUHSC%2051.03%20complai nt%20form.pdf">https://el Paso.ttuhs.edu/hr/_docume nts/TTUHSC%2051.03%20complai nt%20form.pdf</a>
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- b. *System Office of Equal Opportunity (Employees).* Each University has designated a Deputy Title IX Coordinator in the System Office of Equal Opportunity to oversee the University’s compliance with Title IX relating to employees. Employees seeking information, to report sexual misconduct of any kind (including both Title IX Sexual Misconduct and Non-Title IX Sexual Misconduct), or to file a complaint of Sexual Misconduct should contact the Deputy Title IX Coordinator for Employees in the System Office of Equal Opportunity:

<b>DEPUTY COORDINATOR EMAIL &amp; PHONE</b>	<b>OFFICE ADDRESS</b>	<b>WEBSITE &amp; REPORTING LINK</b>
<b><i>Texas Tech University System:</i></b> Charlotte Bingham 806.742.3627 <a href="mailto:eeo@ttu.edu">eeo@ttu.edu</a>  <i>Deputy Title IX Coordinator for Employees (all Universities and System Administration)</i>	Office of Equal Opportunity System Administration Building 1508 Knoxville Ave, Suite 309 Lubbock, TX 79409	<i>Office of Equal Opportunity Website:</i> <a href="https://www.texastech.edu/offices/e qual-employment">https://www.texastech.edu/offices/e qual-employment</a> <i>Reporting Link:</i> <a href="https://cm.maxient.com/reportingfor m.php?TexasTechUniv&amp;layout_id=40">https://cm.maxient.com/reportingfor m.php?TexasTechUniv&amp;layout_id=40</a>

6. Reporting Sexual Misconduct

- a. *Mandatory Reporting to University by Employees.* Texas law requires Employees to report certain types of Sexual Misconduct to appropriate University personnel. All Employees, including student Employees, who in the course and scope of employment, witness or receive information regarding the occurrence of an incident that the Employee reasonably believes constitutes Sexual Misconduct and is alleged to have been committed by or against an individual who was a student enrolled at or an Employee of the University at the time of the incident shall promptly report the incident to the University Title IX Coordinator, Title IX Deputy Coordinator, or the System Office of Equal Opportunity (OEO). An Employee is required to report an incident regardless of where or when the incident occurred. Failure to report Sexual Harassment, Sexual Assault, Dating Violence, or Stalking under this regulation is a violation of state law that shall result in termination of employment and may result in criminal penalties.
- b. *Contents of Report.* Except as provided by Section 6(c) below, the report must include all information concerning the incident known to the Reporting Party, including the involved parties’ names, regardless of whether the Complaining Party has expressed a desire for confidentiality; however, the Reporting Party may also state whether the Complaining Party has expressed a desire for confidentiality.
- c. *Contents of Report by Employee with Confidential Relationship.* An Employee designated by the University as an individual with whom University students may speak confidentially concerning Sexual Misconduct or who receives information regarding such an incident under circumstances that render the Employee's communications confidential or privileged under other law shall, in making a report under this Regulation, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy. This Subsection does not affect the Employee's duty to report an incident under any other law.

- d. *Reporting by Students and Third Parties Encouraged.* All students and third parties are strongly encouraged to promptly report any incidents of Sexual Misconduct to the University Title IX Coordinator, Title IX Deputy Coordinator, or the OEO.
- e. *Limited Exception to Mandatory Employee Reporting.* Notwithstanding Section 6(a) above, an Employee is not required to make a report under this Section concerning: (i) an incident in which the Employee was a victim of Sexual Misconduct; or (ii) an incident of which the individual received information due to a disclosure made at a Sexual Misconduct public awareness event sponsored by or affiliated with the University.
- f. *Reporting to Law Enforcement Agencies.* All students, Employees, and third parties may also report incidents of Sexual Misconduct to law enforcement, including University and local police. Complaining Parties may choose to notify law enforcement and will be provided the assistance of a Title IX Coordinator, Title IX Deputy Coordinator, or the OEO in contacting these authorities if the individual wishes. Complaining Parties may also decline to notify law enforcement of incidents of Sexual Misconduct.
- g. *Victims Encouraged to Seek Medical Care.* An individual who experiences Sexual Misconduct is encouraged to seek medical care for treatment and preservation of evidence, if applicable, as soon as practicable after the incident. Preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, a SANE may still collect evidence several days following a Sexual Assault. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation. To undergo a SAFE, go directly to the nearest emergency department that provides SAFE services.
- h. *Preservation of Evidence.* An individual who experiences any form of Sexual Misconduct should also preserve other evidence relevant to the complained of activity, such as items of clothing, photographs, phone records, text messages, computer records, and other documents.
- i. *Good Faith Actors.* The University may not discipline or otherwise discriminate against an Employee who in good faith: (i) makes a report as required under this regulation or (ii) cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the individual as required under this regulation. This Subsection does not apply to an individual who perpetrates or assists in the perpetration of the incident reported under this regulation.
- j. *Non-Disclosure of Private Information to Medical Providers.* Absent consent from the Complaining Party, disclosures to a healthcare provider, mental health care provider, or other medical provider acting in the course and scope of their employment with the University shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. These Employees are encouraged to provide Complaining Parties with information and guidance regarding University reporting options and available resources. This Subsection does not affect the Employee's duty to report an incident under any other law or regulation under which they maintain their licensure.
- k. *Request of Complaining Party Not to Investigate.* If the Complaining Party of an alleged incident of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking reported to the University requests the University not to investigate the alleged incident, the University may investigate the alleged incident in the same manner that an anonymous complaint may be investigated. The University shall inform the Complaining Party whether the University will

conduct an investigation. In determining whether to investigate the alleged incident, the University shall consider:

- i. The seriousness of the alleged incident;
- ii. Whether the University has received other reports of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking committed by the alleged perpetrator or perpetrators;
- iii. Whether the alleged incident poses a risk of harm to others; and
- iv. Any other factors the University determines relevant.

If the University decides not to investigate an alleged incident of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking based on the Complaining Party’s request not to investigate, the University shall take any steps it determines necessary to protect the health and safety of the University Community in relation to the alleged incident.

- l. *How to Submit a Report.* Employees may fulfill their reporting obligations by submitting a report through the applicable University’s electronic reporting form, available at the links set forth in Section 5, above. Reporting Employees should keep a receipt or proof of the submission of the report.
- m. *False or Malicious Claims.* An individual found to have knowingly submitted a false or malicious claim may be subject to disciplinary action.

7. Complaints By or Against Students

- a. If a student has a complaint of Sexual Misconduct by another student, see the respective University’s *Student Handbook*.
- b. If a student has a complaint regarding Sexual Misconduct involving a student organization, see the respective University’s *Student Handbook*.
- c. If a student has a non-employment based complaint of Sexual Misconduct by an Employee, see the respective University’s *Student Handbook*. Alternatively, the student may contact the University’s Title IX Office or the System Office of Equal Opportunity. Student complaints of Sexual Misconduct by an Employee may be investigated jointly by the University’s Title IX Office and the System Office of Equal Opportunity.
- d. If a student enrolled at the University reports Sexual Misconduct in good faith, the University may not take disciplinary action against that student for violation(s) of the Code of Student Conduct in accordance with the amnesty provisions set forth in the respective University’s *Student Handbook*.
- e. Sanctions for violations of this regulation or the Code of Student Conduct by students may be found at:

UNIVERSITY	LINK
<i>Angelo State University</i>	<a href="https://www.angelo.edu/student-handbook/">https://www.angelo.edu/student-handbook/</a>
<i>Texas Tech University</i>	<a href="http://www.depts.ttu.edu/dos/handbook/">http://www.depts.ttu.edu/dos/handbook/</a>
<i>Texas Tech University Health Sciences Center</i>	<a href="https://www.ttuhsc.edu/student-services/documents/HSC_Institutional_Student_Handbook.pdf">https://www.ttuhsc.edu/student-services/documents/HSC_Institutional_Student_Handbook.pdf</a>

Texas Tech University Health Sciences Center El Paso	<a href="https://el Paso.ttuhsc.edu/student services/ documents/ Institutional-Handbook.pdf">https://el Paso.ttuhsc.edu/student services/ documents/ Institutional-Handbook.pdf</a>
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- f. If a student Employee has a complaint of Sexual Misconduct, which occurs during the course and scope of employment with the University, against an Employee, the student should follow the procedure set forth for Employees in this regulation.
- g. If an Employee has a complaint of Sexual Misconduct against a student, the Employee should contact the University's Title IX Office and/or file an incident report form, found at the Title IX websites set forth in Section 5, above.
- h. The Complaining or Responding Party who is the subject of an alleged incident of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking will be allowed to drop a course in which they are both enrolled without any academic penalty.
- i. If a student withdraws or graduates from the University pending a disciplinary charge alleging the student violated this regulation and the University's code of conduct by committing Sexual Harassment, Sexual Assault, Dating Violence, or Stalking, the University:
  - i. May not end the disciplinary process or issue a transcript to the student until the University makes a final determination of responsibility;
  - ii. Shall expedite the University's disciplinary process as necessary to accommodate both the student's and the alleged victim's interest in a speedy resolution; and
  - iii. On request by another institution, the University shall provide to the requesting institution information relating to a determination that a student enrolled violated this Regulation and the University's code of conduct by committing Sexual Harassment, Sexual Assault, Dating Violence, or Stalking.

8. Employee Complaint Procedures, Including Student Employees

- a. *Type and Location for Filing a Complaint.* If an Employee has a complaint of Sexual Misconduct against another Employee, the general provisions relating to Employees and the Employee complaint procedures set forth in [System Regulation 07.10](#) shall apply.
- b. *Required Form of Complaint.* To initiate an investigation, an Employee having a complaint under this regulation must submit a completed *Complaint of Sexual Harassment, Sexual Assault, or Sexual Misconduct* form, which is available at: [http://www.depts.ttu.edu/hr/documents/TTU\\_Misconduct\\_40.03.pdf](http://www.depts.ttu.edu/hr/documents/TTU_Misconduct_40.03.pdf).
- c. In addition, in complaints of Sexual Misconduct, the following provisions shall control.
  - i. While there is no deadline to file a complaint, to promote prompt and equitable review, the Texas Tech University System and University encourages individuals who believe they have experienced Sexual Misconduct to come forward as soon as possible with their complaint and to seek assistance. Delays in reporting greatly limit the ability to stop the Sexual Misconduct, collect evidence, and/or take effective action against individuals or organizations accused of violating this regulation.
  - ii. Individuals wishing to remain anonymous may file a complaint in any manner, including by telephone or written communication, with the University Title IX Coordinator, a Title IX Deputy Coordinator, or the System Office of Equal Opportunity. However, electing to remain anonymous may greatly limit the ability to

investigate an alleged incident, collect evidence, and/or take effective action against individuals or organizations accused of violating this regulation.

- iii. Both the Complaining and Responding Parties have the right to be accompanied by an advisor of the individual's choosing during all meetings, proceedings, and/or disciplinary hearings at which the individual is present. The role of the advisor will be limited to being present only; advisors are not allowed to actively participate in the process.
- iv. Upon the agreement of all involved parties, voluntary or informal resolution may be used to resolve complaints as defined in this regulation.
- v. After the investigation is complete, the System Office of Equal Opportunity will simultaneously provide notice in writing to the Complaining Party, to the Responding Party, and to the appropriate administrators of the following: (1) determination of the outcome; (2) the finding of the System Office of Equal Opportunity is final and not appealable by either party; (3) in the event a finding of a violation of this regulation is made, appropriate disciplinary actions or sanctions will be taken as determined by the appropriate administrator, up to and including termination of employment; and (4) if either party disagrees with the imposed disciplinary action or lack thereof because the disciplinary action imposed substantially varies from the range of disciplinary actions normally imposed for similar infractions, they may appeal within five business days to the University Title IX Coordinator. However, if the disciplinary action recommended is tenure revocation, proceedings will be pursuant to the University's Tenure Policy.
- vi. The Complaining Party and Responding Party will be simultaneously notified in writing of any changes to the results of an appeal of any disciplinary action that occur prior to the time such results become final and when such results become final.

#### 9. Complaints Involving Non-University Individuals

- a. *Complaints Against University Students or Employees.* If a non-University individual has a complaint of Sexual Misconduct by a University student or a University Employee acting in the scope of their employment, the individual involved may file a report with either the University's Title IX Office or the OEO, and the University may investigate and take steps to address the situation.
- b. *Complaints By University Students or Employees.* If a University Employee or a University student has a complaint of Sexual Misconduct by a non-University party that affects the Employee's work environment or student's educational program or activity, the Employee or student may make a report to the University Title IX Coordinator, Title IX Deputy Coordinator, or the OEO. University may conduct an inquiry and take action, if possible, to prevent further misconduct. However, responses may differ for complaints regarding third parties based on the level of control the University has over the third party. Even though the ability to take direct action against a third party may be limited, the University may take steps to provide appropriate remedies for the Employee or student and, where appropriate, the broader University Community.

#### 10. Retaliation and False Information

- a. *Retaliation.* Retaliation against an individual who reports a potential violation in good faith under this regulation, assists someone with a report of a violation, or participates or refuses to participate in any manner in an investigation or in the resolution of a complaint made under

this regulation is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, coercion, discrimination, reprisals, or adverse actions related to an individual's employment or education. The University will take appropriate steps to ensure that an individual who, in good faith, reports, complains about, or participates or refuses to participate in an investigation, proceeding, hearing, or other resolution pursuant to this regulation will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this regulation.

- b. Subsection (a) does not apply to an Employee who:
  - i. Reports an incident of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking perpetrated by the Employee;
  - ii. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the Employee perpetrated an incident of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking; or
  - iii. Makes a report of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking which after investigation is found not to have been made in good faith.
- c. Individuals who are found to have retaliated under this regulation will be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from the University premises and events.
- d. *False Information.* An individual found to have knowingly and in bad faith provided false or malicious information may be subject to disciplinary action up to and including dismissal or separation from the University. A determination that a Responding Party is not responsible for allegations of Sexual Misconduct does not imply information provided was false. Similarly, a determination that a Responding Party is responsible for a policy violation does not imply that a Responding Party's statements disclaiming responsibility were false.

## 11. Interim Measures

- a. The Complaining Parties may request and the University may implement interim measures, as may be necessary to assure the safety and well-being of the participants in the complaint process, to maintain an environment free from harassment, discrimination, or retaliation, and to protect the safety and well-being of the University Community. Appropriate University officials will decide if and what interim measures are necessary. Such interim measures may include, but are not limited to: (i) separating the Complaining Party's and Responding Party's academic or working situations; (ii) forbidding contact between parties involved in a complaint; and (iii) suspending the right of the Responding Party to be present on campus or otherwise altering the University status of the Responding Party.
- b. Other interim measures may be implemented depending upon the Responding Party's relationship with the University. These interim measures may be kept in place through the conclusion of any review, investigation, or appeal process. Interim measures can be implemented regardless of whether or not the Complaining Party pursues a formal University action or criminal action.

## 12. Confidentiality

- a. The protections provided by this Section apply to:
  - i. Complaining Party;

- ii. Reporting Party;
  - iii. An individual who sought guidance from the University concerning an incident;
  - iv. An individual who participated in the University's investigation of an incident; or
  - v. Responding Party, if after completing an investigation, the University determines the report to be unsubstantiated or without merit.
- b. Unless waived in writing by the individual, the identity of an individual described by Subsection (a):
- i. Is confidential and not subject to disclosure under Chapter 552, Government Code; and
  - ii. May be disclosed only to: (1) University Employees or individuals under contract with the University to which the report is made who are necessary for an investigation of the report or other related hearings; (2) Texas Tech University System or University Employees for purposes of complying with applicable law, including for preparation and reconciliation of statistical reporting required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended;<sup>1</sup> (3) a law enforcement officer as necessary to conduct a criminal investigation of the report by individuals described by Subsection (a); (4) a health care provider in an emergency, as determined necessary by the University; (5) the Responding Party, to the extent required by other law or regulation; and (6) potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law or regulation.
- c. For the purposes of this Section, investigation includes the coordination of the incident response, implementation of interim measures, adjudication of the report, disciplinary action or administrative response to the report, and disclosure by the University as required under state or federal law or regulation.
- d. The willful and unnecessary disclosure of confidential information by anyone, including the Complaining Party or Responding Party, may affect the integrity of the investigation.
- e. Students may make confidential reports to the University Student Counseling Centers, where available, or to other counselors identified by University. Likewise, Employees may make confidential reports through the Employee Assistance Program. All Complaining Parties may also make confidential reports to local rape crisis centers or to other licensed clinical and/or mental health professionals acting in their professional role of providing those services, including medical providers employed by the University. Information may be shared by the clinical and/or medical provider only with the Complaining Party's or Responding Party's consent.

### 13. Cooperation and Non-Interference with an Investigation or Grievance Process

- a. *Cooperation by University Employees.* All University Employees who are not a Complaining Party or Responding Party are required to comply with the Interim Measures, Supportive Measures or information requests, as directed or requested by the University Title IX Coordinator or System Office of Equal Opportunity
- b. *Non-Interference.* Any individual who knowingly and intentionally interferes with an

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<sup>1</sup> The University's *Clery Act* compliance is governed by [System Regulation 07.05](#).

investigation or grievance process conducted under this regulation is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an investigation or grievance process may include, but is not limited to: (i) attempting to coerce, compel, influence, or prevent an individual from providing testimony or relevant information; (ii) divulging confidential information; (iii) removing, destroying, or altering documentation relevant to the investigation; (iv) providing false or misleading information to the investigator, or encouraging others to do so; or (v) making a report under this regulation that, after investigation, is found not to have been made in good faith.

14. Training and Education

- a. The University’s commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this regulation includes providing primary prevention and awareness programs for all incoming students and new Employees, ongoing education to both Employees and students, and emailing information regarding this regulation to students at the beginning of each academic semester. This regulation is published on the University’s website and information regarding this regulation and related policies is required in orientation materials for new students, faculty, and staff. All Employees must attend equal employment opportunity non-discrimination and sex/gender discrimination training including Sexual Assault, Sexual Harassment, and mandatory reporter training within the first thirty (30) days of employment and receive supplemental training every two (2) years. Other appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as risk reduction and safe and positive options for bystander intervention. In addition, the University Employees and administrators responsible for implementing this regulation, including the University Title IX Coordinators, Title IX Deputy Coordinators, OEO employees, investigators, and hearing officers, receive annual training about offenses, investigatory procedures, due process requirements, and University policies related to or described in this regulation.

15. Free Expression

- a. This regulation encourages and respects the right of free speech and expression guaranteed by the First Amendment of the Constitution and academic freedom. Constitutionally protected expression is not considered harassment under this policy; however, some offensive conduct, even though it contains elements of speech, may rise to the level of the type of conduct that creates a sexually hostile environment which is a violation of this policy.

16. University Referencing Operating Policies

See the following for University Operating Policies and Procedures (OP):

<b>UNIVERSITY</b>	<b>OPERATING POLICY AND PROCEDURE</b>
<i>Angelo State University</i>	<a href="#">OP 16.03, Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure</a>
<i>Texas Tech University (and System Administration)</i>	<a href="#">OP 40.03, Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure</a>
<i>Texas Tech University Health Sciences Center</i>	<a href="#">HSC OP 51.03, Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure</a>
<i>Texas Tech University Health Sciences Center El Paso</i>	<a href="#">HSCEP OP 51.03, Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure</a>

## 17. Websites and Other Resources

- a. *University and System Title IX Websites.* The University and System Office of Equal Opportunity maintain websites, set forth above in Section 5, that provide relevant information about this regulation as implemented at the University, including resources, supportive measures, local support services, and illustrative examples of definitions contained herein.
- b. *Additional Resources.* In addition to the website set forth in Section 5, the following additional online resources are available to members of the University Community:

*Title IX for faculty/staff:*

**ASU:** <https://www.angelo.edu/services/title-ix/help-guide-faculty-and-staff.php>;

**TTU:** <http://www.depts.ttu.edu/hr/TitleIX>;

**TTUHSC:** <https://www.ttuhs.edu/human-resources/default.aspx>; and

**TTUHSC EP:** <https://el Paso.ttuhs.edu/hr/titleIXcompliance.aspx>

*Title IX for athletics:*

**TTU:** <http://texastech.com/sports/2016/6/8/school-bio-title-ix-html.aspx>

*Office of the Dean of Students/ Student Affairs:*

**ASU:** [https://www.angelo.edu/services/student\\_services/](https://www.angelo.edu/services/student_services/); and

**TTU:** <http://www.depts.ttu.edu/dos/>;

*Risk Intervention & Safety Education (RISE):*

**TTU:** <http://www.depts.ttu.edu/rise/>

*Student Counseling Centers:*

**ASU:** <https://www.angelo.edu/services/counseling/>;

**TTU:** <http://www.depts.ttu.edu/scc/>;

**TTUHSC:** <https://www.ttuhs.edu/centers-institutes/counseling/pas.aspx>; and

**TTUHSC EP:** <https://el Paso.ttuhs.edu/student services/SCS.aspx>

*Operating Policies & Procedures:*

**ASU:** <https://www.angelo.edu/opmanual/>;

**TTU:** <http://www.depts.ttu.edu/opmanual/>;

**TTUHSC:** <https://www.ttuhs.edu/administration/operating-policies/default.aspx>; and

**TTUHSC EP:** <https://el Paso.ttuhs.edu/opp/>

*Employee Assistance Program (EAP):*

**TTU:** <https://www.ttuhs.edu/centers-institutes/>; and

**TTUHSC:** <https://www.ttuhs.edu/centers-institutes/counseling/about.aspx>

## 18. Authoritative References

Title VII of the Civil Rights Act of 1964

Title IX of the Education Amendments of 1972

34 CFR Part 106

Texas Labor Code Chapter 21

Violence Against Women Act (VAWA)

Campus Sexual Violence Elimination Act of 2013 (Campus SaVE)

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

Texas Education Code Sections 51.9363; 51.251 – 51.260; and 51.281 – 51.295

Texas Family Code Sections 71.004 and 71.0021

Texas Penal Code Section 42.072

19. Right to Change Regulation

- a. Texas Tech University System reserves the right to interpret, change, modify, amend, or rescind this regulation, in whole or in part, at any time without notice to or consent of its Employee, or other members of the University Community.

Contact Office: System Office of General Counsel  
806-742-2155