

# Texas Tech University System

## Regulation 07.10

### Non-Discrimination and Anti-Harassment Policy and Complaint Procedure

Effective: August 14, 2020

Modified: April 20, 2023

Next Scheduled Review: April 2024

#### 1. Purpose

- a. The Texas Tech University System (“System”) and its component universities (each a “University”) are Equal Employment Opportunity (“EEO”) employers and are committed to compliance with federal and state employment laws and regulations; providing and strengthening an educational, working, and living environment where students, employees, and visitors are free from any form of unlawful discrimination; and fostering and supporting a culture of mutual respect and communication. In the event an individual believes their rights under law have been violated, this regulation sets forth the procedures to address these concerns in a fair, equitable, and prompt manner.

#### 2. General Provisions

- a. *Applicability.* This regulation applies to all members of the University Community. Each University shall adopt this regulation through an Operating Policy and Procedure expressly referencing this regulation.
- b. *Non-Discrimination and Anti-Harassment Policy.* The University does not tolerate discrimination or harassment based on or related to sex (including pregnancy), race, color, national origin, religion, age, disability, protected veteran status, genetic information, sexual orientation, gender identity, gender expression, or other protected categories, classes, or characteristics. Discriminatory behavior is prohibited by this regulation, as well as by federal laws such as Title VII, which prohibits discrimination in employment; Title IX, which prohibits discrimination on the basis of sex in education programs or activities; the Pregnancy Discrimination Act; the Equal Pay Act, the Age Discrimination in Employment Act; the Americans with Disabilities Act; the Rehabilitation Act of 1973; the Civil Rights Act of 1991; the Vietnam Era Veterans' Readjustment Assistance Act of 1974; Title II of the Genetic Information Non-Discrimination Act; and state laws such as Chapter 21 of the Texas Labor Code. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, by actions, or through electronic means. The University will make reasonable accommodation on the basis of religion and disability unless the accommodation would impose an undue hardship on the University.
- c. *Sexual Harassment, Sexual Assault, or Sexual Misconduct.* While sexual harassment, sexual assault, or sexual misconduct may constitute prohibited acts of discrimination, such complaints will be addressed under [System Regulation 07.06.A](#), Title IX Sexual Misconduct, and [System Regulation 07.06.B](#), Non-Title IX Sexual Misconduct, rather than pursuant to this regulation.
- d. *Expectations of the University Community.* University expects all members of the University Community to comply with applicable laws. Members of the University Community who violate applicable System or University policies or laws may be subject to disciplinary action

pursuant to [System Regulation 07.07](#), Employee Conduct, Coaching, Corrective Action, and Termination.

- e. *Right to Change Policy.* System reserves the right to interpret, change, modify, amend, or rescind this regulation, in whole or in part, at any time, without prior notice or the consent of employees or other members of the University Community.

### 3. Definitions

For purposes of this regulation, the definitions below apply.

- a. *Discrimination.* Conduct directed toward an individual that subjects the individual to treatment that adversely affects their employment or education because of their race, color, religion, national origin, sex (including pregnancy), age, disability, protected veteran status, genetic information, sexual orientation, gender identity, or gender expression.
- b. *Employee.* Any person who receives a W-2 or 1042-S from the University (including full- and part-time faculty, staff, and students) who is hired by the University in accordance with federal and state regulations and the University's employment policies.
- c. *Harassment*<sup>1</sup>. Harassment based on a person's protected class under this regulation is a form of discrimination. Harassment is verbal or physical conduct that is directed toward an individual because of sex (including pregnancy), race, color, national origin, religion, age, disability, protected veteran status, genetic information, sexual orientation, gender identity, gender expression, or other protected categories, classes, or characteristics, when such conduct is sufficiently severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or of creating a hostile academic or work environment. Examples of inappropriate behavior that may constitute unlawful Harassment include, but are not limited to, the following, if related to an individual's protected category, class, or characteristic:
  - i. Derogatory, disparaging, or disrespectful remarks, comments, slurs, or jokes about a particular person or protected category, class, or characteristic of persons based on, about, or because of a protected category, class, or characteristic;
  - ii. Display of explicit or offensive posters, pictures, drawings, correspondence, digital or broadcast content (including image(s), video(s), or audio), or any other physical, digital, or multimedia materials in any form that reflect disparagingly upon a category, class, or characteristic of persons or a particular person in a protected category or class;
  - iii. Loud or angry outbursts or obscenities in the workplace directed toward a member of the University Community; or
  - iv. Disparate treatment without a legitimate business reason.

A minor slight, snub, annoyance, insult, or isolated incident including but not limited to a microaggression, is not sufficient to establish unlawful Harassment, whether verbal or non-

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<sup>1</sup> For the definition of "*Harassment*" in the context of student-on-student conduct, including conduct on the basis of protected class, please see Section 5.c of this regulation.

- verbal in nature. General concerns of unprofessionalism should be addressed in accordance with standard departmental operating procedures. The System Office of Equal Opportunity may refer concerns of general professionalism back to the supervisor(s) and/or department to review and address as appropriate.
- d. *Office of Equal Opportunity (OEO)*. The [System Office of Equal Opportunity](#) enforces this regulation, handles complaints of unlawful discrimination and harassment, and functions as a neutral party in investigating complaints. Matters that have already been adjudicated through University policies and processes may not be appealed through OEO.
  - e. *Pregnancy and Pregnancy-Related Condition(s)*. Pregnancy, complications related to pregnancy, false pregnancy, termination of pregnancy, childbirth, and recovery from any of these conditions.
  - f. *Reporting Party*. A person or entity (in the case of the University) who submits a complaint alleging a violation of this regulation.
  - g. *Responding Party*. Generally, the Responding Party is the person who is alleged to be responsible for the prohibited conduct alleged in a complaint.
  - h. *Sexual Misconduct*. A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes Title IX Sexual Misconduct, as defined in [System Regulation 07.06.A](#); Sexual Misconduct, Sexual Harassment, Nonconsensual Sexual Contact, Nonconsensual Sexual Intercourse, Sexual Assault, Sexual Exploitation, Stalking, Public Indecency, and Interpersonal Violence, each as defined in [System Regulation 07.06.B](#); and any other form of sexual misconduct, sexual violence, or other misconduct based on sex. Pursuant to Section 2.c. of this regulation, Sexual Misconduct complaints are governed by System Regulations 07.06.A and 07.06.B.
  - i. *University Community*. All University students and employees, visitors, applicants for admission or employment with the University, as well as University affiliates and others conducting business on campus.

#### 4. Accommodations

- a. *Pregnancy Accommodations*. Pregnant women or women with pregnancy-related conditions will be treated the same for all employment and academic-related purposes, including workplace or academic accommodations, as other persons not so affected but similar in their ability or inability to perform their job duties or academic requirements.
- b. *Religious Accommodations*. The University's commitment to equal opportunity includes embracing religious diversity and cultivating a community of inclusion and respect. As such, the University prohibits discrimination based on religious beliefs, practices, or affiliations. In addition, the University will make reasonable accommodations for an individual's sincerely held religious beliefs and practices unless doing so would impose an undue hardship on the University. The following resources and procedures are available to members of the University Community:
  - i. *Applicants*. Applicants needing an accommodation at any point during the application process should contact the University's human resources department.

- ii. *Employees.* Employees requesting an accommodation should submit a written request to their supervisor which outlines the basis for the request and employee's suggested accommodation. Employees may also contact the University's human resources department with questions regarding a request for a religious accommodation. Faculty who will be absent from work for observance of a religious holy day should consult the University's applicable operating policies and procedures regarding faculty absences.
- iii. *Students.* Students who intend to be absent in observance of a religious holy day, a holy day observed by a religion whose places of worship are exempt from property taxation under Texas Tax Code §11.20, should make such intention known in writing to the instructor prior to the absence and should consult the University's applicable operating policies and procedures regarding student absences. Students wishing to request any other religious accommodation should consult the University's applicable operating policies and procedures regarding requests for religious accommodation.
- c. *Disability Accommodations.* The University will make reasonable accommodations on the basis of disability unless the accommodation would impose an undue hardship on University. Individuals seeking accommodations for a disability should consult the University's applicable operating policies and procedures regarding disability accommodations.

## 5. Complaints

- a. *General Provisions Relating to Employee Complaints.* While not appropriate, not all rude or offensive comments or conduct constitute unlawful discrimination or Harassment.
  - i. This complaint procedure is applicable to all employees, whether staff or faculty, who choose to complain about unlawful discrimination or other violations of the law that adversely affect their employment, other than complaints of Sexual Misconduct, which are governed by [System Regulations 07.06.A and 07.06.B](#).
  - ii. All complaint investigations and procedures will be non-adversarial in nature and will be conducted in a fair and impartial manner. Language interpreters and other individuals intended to aid the employee in communicating will be permitted. No University funds may be used to pay expenses for salary, travel, or per diem of a public employee engaged in the complaint process, nor may other University resources be used, except that an employee is allowed to take vacation leave or leave without pay subject to established University operating policies and procedures to engage in this activity.
  - iii. Relevant administrators will be notified of formal investigations. The University's Office of the Provost will be notified of any complaints involving faculty.
  - iv. University employment is at-will unless otherwise modified by official University operating policy or contract, and nothing in this regulation changes the at-will status of an employee. Employment is for an indefinite duration and can be terminated at any time, with or without cause, and with or without notice, by either University or the employee. Nothing in this regulation constitutes an employment agreement, either expressed or implied, a contract, a contractual relationship, or a guarantee of continued employment.

- v. The filing of a complaint shall not affect the ability of the University to pursue disciplinary action or separation action for reasons other than employee's filing of a complaint.
  - vi. A termination of employment cannot be the subject of a complaint unless the employee has reason to believe the termination was prohibited by law. A violation of a University policy alone does not necessarily constitute a violation of law or an action prohibited by law.
  - vii. Nothing in this regulation shall prevent an employee from presenting a charge of discrimination or other complaint covered by this regulation to an external agency, such as the Equal Employment Opportunity Commission or Texas Workforce Commission. However, if an employee files a complaint with an external agency, with the exception of a complaint of Sexual Misconduct, while OEO may continue its investigation, the internal process shall terminate and any response to the complaint will be made to the external agency and not to the employee.
  - viii. For complaints that do not involve discrimination, harassment, or protected status, consult University's applicable operating policies and procedures.
- b. *Employee Complaint Procedures, Including Student Employees.* Except for complaints of Sexual Misconduct, which are governed by [System Regulations 07.06.A and 07.06.B](#), prior to filing a formal complaint, the employee should attempt to resolve the situation by addressing the Responding Party in an informal manner and in an atmosphere of mutual respect. If the employee is not comfortable addressing that individual, the prospective Reporting Party may address concerns to their first or second level supervisor. If the situation is not resolved by informal means or if the employee is not comfortable with doing so, the employee may contact OEO to further discuss the matter or file a complaint.
- i. An employee having a complaint should submit a completed *Complaint of Discrimination* form, which is available on the OEO website and University's human resources department website. Except as otherwise provided by University policy or law, this complaint should be submitted to OEO within thirty (30) days from the date of the complained of action.
  - ii. A written complaint shall contain:
    1. A clear and concise statement of the complaint;
    2. The date the incident took place;
    3. The name and contact information of the Reporting Party, the Responding Party, and any witnesses;
    4. The specific resolution sought by the employee; and
    5. Additional relevant information to be considered in support of the complaint.
  - iii. Any changes to the complaint must be in writing.
  - iv. Only one subject matter shall be covered in any one complaint.

- v. Once a signed complaint form is received by OEO, an investigation may be conducted by that office and the appropriate administrators.
  - vi. The investigation may consist of review of the complaint and any supporting documentation, examination of other relevant documentation, and interviews with relevant individuals. Each party will be given the opportunity to present their side and identify witnesses and other relevant evidence. The extent of the investigation and its procedures will be determined by and at the discretion of OEO. Any findings in the investigation will be based upon a preponderance of the evidence (i.e., whether the findings are more likely than not).
  - vii. Investigations will be completed as expeditiously as possible.
  - viii. After the investigation is complete, OEO will provide a written determination to the Reporting Party, the Responding Party, and to the appropriate University department administrator.
  - ix. The findings of OEO are final.
  - x. In the event of a finding of a violation of this regulation or other violation of the law is made, appropriate disciplinary action will be taken as determined by the appropriate administrator. Disciplinary action may range from counseling up to and including termination. Termination procedures for tenured faculty will be conducted pursuant to University's applicable operating policies and procedures regarding faculty non-reappointment, dismissal, or tenure revocation.
  - xi. Any employee subjected to disciplinary action may appeal any such action, but not the findings of OEO, within the time periods and through the procedures established for faculty and staff in University's applicable operating policies and procedures regarding faculty or staff complaint procedures, respectively. A copy of the appeal should be forwarded to OEO by the University.
  - xii. Any disciplinary action taken in connection with a complaint filed pursuant to this policy shall be reported in writing to OEO by the responsible University administrator at the time the disciplinary action is implemented. Confirmation of the disciplinary action can be provided via a copy of a counseling or other written disciplinary action, resignation, termination document, etc.
  - xiii. At the conclusion of the investigation, the Reporting Party shall be advised that if the discrimination or unlawful activity persists, the employee should contact OEO. Likewise, in the event the employee believes unlawful retaliation for filing a complaint has taken place, the employee should contact OEO and/or file a complaint for retaliation.
  - xiv. In the event of a finding of a violation of this regulation, OEO will follow up with the Reporting Party within sixty (60) days to ensure that the complained of behavior has ceased.
- c. *Complaints by Students or Involving Students.* In the context of student-on-student conduct, "harassment" is verbal or physical conduct that is directed toward a student because of sex (including pregnancy), race, color, national origin, religion, age, disability, protected veteran status, genetic information, sexual orientation, gender identity, gender expression, or other

protected categories, classes, or characteristics, when such conduct subjects a student to sufficiently severe, pervasive, and objectively offensive treatment, effectively denying the student equal access to educational opportunities.

The following complaints involving students shall be handled in accordance with the University's student handbook:

- i. A student's complaint of discrimination or harassment by another student;
- ii. A student's complaint regarding discrimination or harassment involving a student organization; or
- iii. A student's non-employment based complaint of discrimination or harassment by an employee.

Student employees having a complaint of discrimination or harassment in employment should follow the Employee Complaint Procedures set forth in this regulation. This regulation does not apply to complaints related to a student's academic program or decisions rendered pursuant to an established University policy (e.g., dismissal, suspension, leave of absence). This regulation does not apply to grade appeals, regardless of the basis of the appeal. All grade appeals will be handled pursuant to the University's grade appeal policy.

If an employee has a complaint of discrimination or harassment against a student, the employee should contact the Office of Student Conduct or the Office of Students Rights and Resolution and/or file an incident report form.

- d. *Complaints Involving Non-University Individuals.* If a non-university individual has a complaint of discrimination or harassment by a student or University employee acting in the scope of their employment, the individual involved may file a report with either the Office of the Dean of Students or OEO, and the University may investigate and take steps to address the situation.

If a student or University employee has a complaint of discrimination or harassment by a non-University party that affects student's educational environment or employee's work environment, the individual may make a report to the Office of the Dean of Students or OEO. The University may conduct an inquiry and take action, if possible, to prevent further misconduct. However, the University's response may differ for complaints regarding third parties based on the level of control University has over the third party. Even though University's ability to take direct action against a third party may be limited, University may take steps to provide appropriate remedies for the employee and, where appropriate, the broader University Community.

- e. *Retaliation.* Retaliation against a person who opposes a discriminatory practice, reports a potential violation under this regulation, assists someone with a report of a violation, or participates 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, reprisals, and/or adverse actions related to an individual's employment or education. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an investigation 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.

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 University premises and events.

- f. *Interim or Supportive Measures.* Reporting Parties may request, and the University may implement, interim or supportive 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 measures may include, but are not limited to:
- i. Separating the Reporting 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.

Other interim or supportive measures may be implemented depending upon the Responding Party's relationship with the University. These measures may be kept in place through the conclusion of any review, investigation, or appeal process. Interim or supportive measures can be implemented regardless of whether or not the Reporting Party pursues formal University or criminal action.

- g. *Reporting Requirements.* All employees who witness or receive a report of unlawful discrimination or other violations of the law have the obligation to report such actions to their immediate supervisor, OEO, University's police department, or other appropriate law enforcement authority. A supervisor who receives a report of discrimination shall notify OEO of such report. For reporting requirements relating to claims of Sexual Misconduct, see [System Regulation 07.06.A](#), Title IX Sexual Misconduct, and [System Regulation 07.06.B](#), Non-Title IX Sexual Misconduct.
- h. *Confidentiality.* The confidentiality of both the Reporting Party and the Responding Party will be honored by the University to the extent possible without compromising the University's commitment and obligation to investigate allegations of discrimination or violations of law, to protect the University Community, and to the extent allowed by law. The willful and unnecessary disclosure of confidential information by anyone, including the Reporting Party or Responding Party, may affect the integrity of the investigation.
- i. *Interference with an Investigation.* Any person who knowingly and intentionally interferes with an investigation conducted under this regulation is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an investigation 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; or



- iv. Providing false or misleading information to the investigator, or encouraging others to do so.
  
- j. *Training.* All employees must complete equal opportunity non-discrimination and sex/gender discrimination training including sexual assault, sexual harassment, and campus crime mandated reporter training within the first thirty (30) days of employment and receive supplemental equal opportunity non-discrimination training every two (2) years.

Employees are informed of the equal opportunity policy through new employee orientation, equal opportunity training sessions, this non-discrimination policy and other System Regulations and University operating policies, and the placement of the equal opportunity federal and state posters at various locations throughout the campus. Information about the University equal opportunity policy can also be obtained from the University's human resources department and the [System Office of Equal Opportunity website](#).

Students are informed of policies regarding non-discrimination at new student orientation, via the University Student Handbook, and through other outreach, awareness, and educational programs offered by the University.

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