

Policies of the University of North Texas System Administration	Chapter 03
<b>03.705 Prohibition of Sexual Assault and Retaliation</b>	Human Resources

**Policy Statement.** The University of North Texas System Administration is committed to maintaining an environment free from sexual assault and retaliation. Conduct that is inconsistent with this commitment will not be tolerated at any location, program or other activity associated with the UNT System.

**Application of Policy.** This policy applies to all employees, applicants for employment, individuals and organizations conducting business on behalf of or for the System Administration, visitors and participants at any location, program or other activity associated with the UNT System. The System Administration may act under this policy when prohibited conduct that occurs at locations other than on UNT System property or activities has a reasonable likelihood of adversely affecting the academic or work environment.

**Definitions.**

1. Complainant. “Complainant” means an individual who may have been the subject of conduct prohibited under this policy regardless whether the individual reports the conduct.
2. Confidential Employee. A “Confidential Employee” means a System Administration employee who is not obligated to disclose reports of sexual assault as required under this policy based on the requirement of the employee’s professional licensure and the nature of her or his official responsibilities with the System Administration. Confidential Employee, as defined in this policy, includes but is not limited to licensed attorneys and employees in the UNT System Office of General Counsel. Other staff who hold professional licenses but who are not employed in a capacity by the System Administration that requires the license are not Confidential Employees under this policy.
3. Consent. “Consent” means words or actions that show an active, knowing and voluntary agreement to engage in sexual activity. Consent cannot be gained by force, coercion, manipulation, threats, or by taking advantage of the incapacitation of another when the individual knows or reasonably should know of such incapacity by use of alcohol or drugs. Consent is absent when the activity in question exceeds the scope of previously given consent, or the person is unconscious or otherwise unaware that the prohibited conduct is occurring. Consent may be revoked at any time.
4. Days. “Days” mean calendar days unless otherwise stated in the policy.

5. Employee. "Employee" means an individual who is employed part-time, full-time, or in a temporary capacity, or who is required to be a student as a condition of employment.
6. Good Faith. "Good Faith" means a reasonable belief that reported conduct or behavior is prohibited under this policy. Good faith is based on the reporting individual's education, training, and experience.
7. Preponderance of the Evidence. "Preponderance of the evidence" means 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 also is referred to as the greater weight of the evidence.
8. Respondent. "Respondent" means an individual or organization identified as possibly having engaged in conduct prohibited under this policy regardless whether a formal complaint is made.
9. Retaliation. "Retaliation" means 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 term or condition of employment, including compensation, promotion, transfer, work assignment, or performance evaluation; or a nonemployee's educational or other relationship with any component of the UNT System.
10. Sexual Assault. "Sexual Assault" means any sexual act, contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. The term sexual assault also includes rape, fondling, incest and statutory rape.
11. Student. "Student" means an individual who has applied for admission or readmission to an academic institution in the UNT System, who is registered or enrolled in one or more courses for credit at any of these component institutions, or who currently is not enrolled but has a continuing academic relationship with any of these component institutions.
12. Title IX Coordinator. "Title IX Coordinator" means an employee designated by the Chancellor to investigate allegations of sexual assault involving a student at any component institution in the UNT System. In this policy, reference to the Title IX Coordinator also means her or his designee.

## **Procedures and Responsibilities.**

### **I. Reporting**

#### **1. Reporting Sexual Assault and Retaliation:**

- a. Employees, Students and Other Individuals. Call 911. A person who believes sexual assault is imminent should immediately call 911.

Responsible Party: Law Enforcement

- b. Employees and Other Individuals. An employee or other individual who believes she or he has been sexually assaulted should immediately report the conduct to the employee's immediate supervisor, unless that person is the one alleged to have committed the assault, or to the System Administration Office of Equity, Diversity and Inclusion. A student who believes she or he has been sexually assaulted may report the conduct to the Dean of Students or Title IX Coordinator at the campus at which the student is enrolled.

Responsible Party: System Administration Office of Equity, Diversity and Inclusion

- c. Anonymous Reporting. Individuals wishing to remain anonymous may report suspected assault or retaliation by visiting the UNT System Compliance Hotline and Reporting website.

Responsible Party: Compliance Office

#### **2. Reporting Obligations:**

- a. Employees and individuals authorized to act on behalf of System Administration who become aware of suspected sexual assault or retaliation are required to immediately report the suspected violation to his or her direct supervisor and to the System Administration Office of Equity, Diversity and Inclusion. If a direct supervisor is the person alleged to have engaged in the prohibited conduct, the report must be made to that individual's supervisor and to the System Administration Office of Equity, Diversity and Inclusion. In no instance is an individual required to report the alleged violation to the person suspected of the prohibited conduct.

Responsible Party: Employees and Individuals Acting on Behalf of System Administration.

- b. Other individuals, including guests of System Administration, are encouraged to report suspected assault or retaliation to the Office of Equity, Diversity and Inclusion.

Responsible Party: Other Individuals.

- c. Exception to Obligation to Report. Confidential Employees, as defined in this policy, are not obligated to report prohibited conduct under 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.

Responsible Party: Confidential Employees

- II. Protection against Retaliation. Retaliation against any person who reports or encourages another to report sexual assault or retaliation, who participates in an investigation conducted under this policy, or who seeks assistance or guidance from any System Administration department or external official or organization authorized to remediate conduct prohibited under this policy is strictly prohibited.
- III. Confidentiality.
  1. Confidentiality. Information that reasonably could lead to the identification of a Complainant, or an individual who reports or participates in an investigation conducted under this policy 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. Information also may be confidential under the Family Educational Rights and Privacy Act.
  2. Protection of Non-Confidential Information. As permitted by section 51.971 of the Texas Education Code, information may be protected from disclosure when 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.
  3. Authorized Disclosure of Information. Confidential information and information that is protected from disclosure under this policy may be released:
    - a. with the written and signed consent of the individual whose identity would be disclosed;
    - b. to law enforcement agencies or prosecutors;
    - c. to federal and state agencies responsible for investigating sexual harassment, sexual violence, sexual misconduct or retaliation;
    - d. to notify a Complainant and Respondent of the outcome of an investigation, including sanctions imposed for violating this policy;
    - e. to allow the System Administration to take effective protective measures; or
    - f. as required by lawfully issued subpoena or otherwise authorized by law.

- IV. False or Bad Faith Reports. Any individual who makes a false or bad faith 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 alleged violation did not occur.
- V. Remedial and Interim Measures. System Administration will take measures to promptly remediate prohibited conduct, including taking appropriate interim measures to ensure the efficient completion of an investigation and resolution of the allegation(s). Interim measures are not disciplinary in nature and must be consistent with other System Administration policies. The System Administration Office of Equity, Diversity and Inclusion will coordinate with campus Title IX Coordinators when interim measures are appropriate to resolve a complaint involving a student.
- VI. Responding to Reports of Sexual Assault.
1. Reviewing Reports. System Administration shall review all reports of sexual assault and retaliation to determine whether an investigation should be conducted regardless whether a written complaint is filed. Before initiating an investigation, the victim of the alleged offense (if the person's identity is known), shall be informed that:
    - a. she or he may file a criminal complaint with law enforcement officials at any time;
    - b. System Administration has an obligation to remediate suspected sexual assault and that an investigation may be conducted whether a criminal complaint is filed;
    - c. System Administration can take measures to protect against continued misconduct and retaliation;
    - d. voluntary withdrawal of an allegation will not necessarily result in termination of an investigation; and
    - e. she or he should contact the System Administration Office of Equity, Diversity and Inclusion if retaliation is suspected.

A decision not to investigate a report shall be documented in writing and include the reason(s) for not investigating the allegation(s).

2. Investigating Reports. All credible allegations of prohibited conduct shall be investigated. If the Complainant asks that her or his identity not be disclosed or that the complaint not be pursued, the System Administration will take reasonable steps to comply with the request as long as doing so does not prevent the System Administration from responding effectively under this policy. The Complainant will be informed that such a request may limit the System Administration's ability to respond to the report and that anonymity in the resolution process cannot be assured. In determining whether the Complainant's request will be granted, the System Administration will consider:

- a. the seriousness/nature of the allegation;
- b. whether the alleged behavior or conduct presents a threat to individuals other than the person who is making the request;
- c. whether effective measures can be put in place to protect the individual against continued physical or psychological harm or retaliation;
- d. whether delaying an investigation could reasonably result in the destruction or deterioration of potential evidence to corroborate or refute the allegation; and
- e. any other information that has a reasonable bearing on the decision.

The Complainant will be informed, in writing, if the request is not granted and the reason(s) for the decision.

3. **Obligation to Participate in Investigations.** Individuals are expected to cooperate 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:
  - a. attempting to coerce, compel, or prevent an individual from providing information related to the investigation;
  - b. removing, destroying, or altering information that relates to the investigation; or
  - c. providing false or misleading information in the course of an investigation or encouraging others to do so.
4. **Timeline and Notifications.** Investigations will be completed within a reasonable time.
5. **The System Administration Office of Equity and Inclusion** is responsible for investigating reports of sexual assault and retaliation for the System Administration, UNT Health Science Center and UNT Dallas, except when the person reported to have engaged in the conduct is a student at the Health Science Center or at UNT Dallas. When the alleged offender is a student, the Title IX Coordinator at the campus where the student is enrolled is responsible for investigating the report and coordinating resolution with the System Administration Office of Equity and Inclusion, as appropriate.
6. **General Investigation Procedures.** In addition to any specific procedures set out in other System Administration policies, the following procedures shall be followed in resolving reports of sexual assault:
  - a. The Complainant and Respondent shall receive notice of the allegation(s) and be informed of the status of the review or investigation.
  - b. The Respondent and Complainant shall be given an opportunity to respond to relevant information gathered in the course of the investigation before the

investigation is completed. The Complainant must be given an opportunity to respond to relevant information provided by the Respondent.

- c. The System Administration Office of Equity, Diversity and Inclusion is responsible for preparing a written report setting out its findings and whether the Respondent violated this policy, and must consult with the UNT System Office of General Counsel before completing the report of investigation.
- d. The Complainant and Respondent shall be notified, in writing, of the investigation findings and determination and be provided a summary of the investigation within a reasonable time after the report of investigation is completed. System Administration may notify other individuals as appropriate.
- e. For Title IX complaints, Respondents and Complainants may request a review of the findings and determination by the Associate Vice Chancellor for Human Resources or his or her designee.
- f. A request for review must be submitted to the reviewing official within five (5) business days from the date of the notice and include the reason(s) for the review and any new information the individual wishes the reviewing official to consider. The decision of the reviewing official regarding the finding and determination is final.

VII. Record Retention. Records created under this policy shall be confidentially maintained in accordance with the System Administration's record retention schedule. In all cases, access to complaint and investigation records is strictly limited to officials with a direct operational need to know unless otherwise authorized by law.

VIII. Education and Resources.

1. Employee Education and Training. New employees shall receive training on this policy no later than the 30<sup>th</sup> day after employment. All employees are individually responsible for completing the training described in this paragraph a minimum of every two years.
2. 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 System Administration policies and Regents Rules.
3. Policy Awareness and Publication. This policy shall be published in the employee policy manual and on a System Administration website dedicated solely to the prevention of sexual assault, and may be included in any other publication as determined by the System Administration.
4. Resources and Services. Resources and services that can help lessen the trauma of assault and assist with healing can be found at the System Administration's Sexual Assault Support web page.

IX. Sanctions and Legal Implications. Any violation of this policy may result in sanctions. Sanctions imposed for violating this policy must be reported to the System Administration Office of Equity, Diversity and Inclusion.

1. System Administration Imposed Sanctions. Any individual who violates this policy is subject to disciplinary action, including termination of employment or business relationships, as applicable.
2. Federal or State Sanctions. Federal or State agencies may impose fines and other sanctions against the System Administration for violations of federal or state anti-harassment laws.
3. Civil Action. Individuals may take court action against individuals and System Administration that could result in financial liability.
4. Criminal Sanctions. Conduct prohibited by this policy may constitute a criminal offense under the Texas Penal Code.

**References and Cross-references.**

System Administration Policy 03.403, Staff Employee Discipline  
System Administration Policy 03.1001, Employee Grievances

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