



**Dallas Baptist University
Sexual Misconduct Policy**
(including Sexual Harassment, Assault, Violence,
and other Sexual Misconduct)

Revised August 2024

1. Overview

The vision of Dallas Baptist University is to build a great Christian university that is pleasing to God by producing Christ-centered servant leaders who are transforming the world. Towards that end, DBU seeks to provide a living and learning environment where faculty, staff, and students can grow and be free from sex discrimination and sexual misconduct. DBU has a high moral commitment to the worth and dignity of all individuals. Members of the University community, guests, and visitors have the right to be free from all forms of sex discrimination and sexual misconduct.

This Sexual Misconduct Policy is meant to promote a living and learning environment for all members of the campus community in accordance with DBU's Scriptural beliefs about human sexuality and in compliance with state and federal laws including, but not limited to, Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013, Title VII of the Civil Rights Act of 1964, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the Campus Sexual Violence Elimination (SaVE) Act, and Texas Education Code Subchapter E-2 and E-3. As a religious institution of higher education, the University is exempt from Title IX to the extent that the University's religious tenets conflict with Title IX.

The University prohibits sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, and other sexual misconduct as outlined in this policy.

As per Title IX regulations, no person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX and its implementing regulations. This policy prohibits any attempt to seek retribution against an individual or group of individuals involved in filing a complaint or report under this policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this policy.

As part of this policy, DBU wants to promote an environment of non-discrimination in accordance with federal and state laws and DBU's own Scriptural beliefs. DBU also wants to promote a learning environment that will allow faculty, staff, and students to thrive in accordance with DBU's mission and its Scriptural beliefs.

The provisions of this policy do not constitute a contract, express or implied, between the University and any applicant, student, the student's family, employee, or any other person. The University reserves the right to change the policies, procedures, rules, regulations, and information contained in this Policy at any time.

2. Mandatory Reporting by University Employees

It is important that all University employees understand that any University employee who becomes aware of a potential violation of this policy **must** promptly report it to the Title IX Coordinator. This reporting obligation extends beyond violations involving students and can include, but is not limited to, violations that involve faculty, staff, and campus visitors.

Under Texas law, a University employee who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of DBU at the time of the incident shall promptly report the incident to DBU's Title IX Coordinator. The report should be in writing and must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.

An employee designated by the University as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking or who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law (licensed physicians, psychologists, and pastoral counselors) must also make a report but shall, in making a report, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy. This reporting requirement does not affect the employee's duty to report an incident under any other law.

Victims of sexual harassment, sexual assault, dating violence, or stalking or disclosures made at sexual harassment public awareness events sponsored by the University do not have to be reported.

The University shall terminate the employment of an employee whom it determines to have knowingly failed to report or knowingly made a false report with the intent to harm or deceive.

3. Scope

This policy governs three specific categories of sexual misconduct: 1) certain cases involving an allegation that falls under Title IX of the Education Amendments of 1972 ("Title IX Cases"); 2) cases involving an allegation that does not fall under Title IX, but falls within the scope of laws specific to the State of Texas ("Texas Law Cases"); and 3) cases involving an allegation that falls under the University's own policies or which violate DBU's Scriptural beliefs about human sexuality ("Institutional Offenses").

- (a) **Title IX Cases:** Title IX and corresponding federal regulations create requirements for how higher education institutions are to handle certain types of sexual misconduct. Those "Title IX Cases" will be handled using DBU's Title IX complaint procedures outlined below.

Title IX applies when DBU has: (1) actual knowledge of (2) sexual harassment under Title IX in an (3) education program or activity and that sexual harassment (4) occurs in the United States.

1. Title IX only applies where the University has actual knowledge of a complaint (defined below) that is made to the Title IX Coordinator (who has the authority to institute corrective measures on behalf of the University).
2. Sexual Harassment under Title IX means:
 - a. (i) an employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct [*Quid pro quo* harassment];

- b. (ii) unwelcome conduct based on sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity [Hostile Environment Harassment]; or
 - c. (iii) sexual assault as defined in 34 CFR 668.46(a) [Sexual Assault, Dating Violence, Domestic Violence, and Stalking].” [Note: The material in brackets is provided to clarify these provisions. More information may be found in Appendix A: Definitions]
 3. Title IX only applies to formal complaints arising from a University “educational program or activity,” which include locations, events, or circumstances over which DBU exercises substantial control over both: (i) the respondent and (ii) the context in which the sexual harassment occurs. Title IX obligations will also extend to off-campus incidents if any of the three conditions are met: (i) the off-campus incident occurs as part of the University’s operations pursuant to 20 U.S.C. 1687 and 34 CFR 106.2(h); (ii) the University exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus pursuant to §106.44(a); or (iii) the incident of sexual harassment occurs at an off-campus building owned or controlled by a student organization officially recognized by DBU pursuant to §106.44(a).”
 4. The alleged incidents of sexual harassment must occur in the United States.

If the reported matter does not meet this definition, the Title IX Coordinator may provide supportive measures to the complainant and/or refer the matter to appropriate University official for processing pursuant to another applicable DBU policy.

(b) Texas Law Cases: The Texas Education Code also prohibits sexual harassment, sexual assault, domestic or dating violence, and stalking, and places requirements for how higher education institutions in Texas are to handle these types of cases. The definitions found in Appendix A provide more information on the Texas law definitions for these types of cases. Texas Law Cases will also be handled using DBU’s Title IX complaint procedures outlined below.

Where the alleged sexual misconduct occurred outside the geographic scope defined under Title IX, the alleged sexual misconduct may still fall under the geographic scope for Texas Law cases. Texas Education Code Subchapter E-2 and E-3 reference the geographic framework identified in the Clery Act, meaning that a case may fall within the geography for a Texas Law case where: (a) it does not fall within the geographic scope for Title IX cases; (b) the alleged incident happened on DBU’s campus; (c) the alleged incident occurred on public property within or immediately adjacent to the DBU campus, or (3) the alleged incident occurred in or on non-campus buildings or property that DBU owns or controls (including sites outside the United States if the University exercises substantial control over that site, such as study abroad sites where the University contracts for dormitory-style housing or travel-study trips where the University has used the same hotel so often in the past that it is deemed to have substantial control over the rooms allocated to DBU trip participant members).

Where there was an alleged incident of sexual harassment, sexual assault, dating violence, or stalking (as defined by Texas Education Code Subchapter E-2 and E-3) that is alleged to have been committed by or against a person who was a student enrolled at or an employee of the University at the time of the incident (regardless of whether the person later left or transferred from the University), these cases would be handled under DBU’s Title IX complaint procedures outlined below.

- (c) **Institutional Offenses:** Because of the University's Christian mission, it is vitally important to DBU to promote righteous living in all areas of life, including in human sexuality. While certain types of sexual misconduct may not violate federal or state law, these acts may nonetheless violate DBU's Scriptural beliefs about human sexuality (as defined in [DBU's Statement on Sexuality](#)).

DBU is guided by the understanding that human sexuality is a gift from God and that the purpose of this gift includes the procreation of human life and the uniting and strengthening of the marital bond in self-giving love between one man and one woman. DBU bases its understanding of human sexuality on biblical principles outlined throughout the Old and New Testament along with the history of Christian church thought, teaching, and practice. Faculty, staff, and students at Dallas Baptist University are expected to always conduct themselves in accordance with the highest standards of Christian morality.

Toward this end, the University prohibits the following sexual misconduct by any faculty, staff, or student, and will utilize the complaint procedures in the Employee Handbook or Student Handbook for handling complaints falling within (a)-(e) below, and will utilize the Title IX complaint procedures for any cases falling within (f) or (g) in the list below:

- a. Sexual activity with another person outside of a monogamous heterosexual marriage between one biological male and one biological female;
- b. Touching, caressing, and other physical conduct of a sexual nature that is inappropriate or contrary to DBU's Scriptural beliefs about human sexuality;
- c. Participation in advocacy groups and/or activities that are contrary to DBU's Scriptural beliefs about human sexuality;
- d. The possession or viewing of pornographic material;
- e. Other expressions or actions that are discordant with DBU's Scriptural beliefs about human sexuality and gender, as outlined in DBU's Statement on Sexuality;
- f. Sexually Inappropriate Conduct or Sexual Exploitation, as Defined in the Definitions Section of this Policy; or
- g. Other sexual misconduct cases involving sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, sexually inappropriate conduct, and other sexual misconduct outlined in the Definitions section of this policy which do not meet the geographic or other requirements to be handled as Title IX cases or Texas Law cases, but in which the nexus to DBU's campus or one of its educational activities or some other compelling reason weighs in favor of DBU protecting its faculty, staff, students, and visitors by exercising jurisdiction over the case.

4. Definitions

For purposes of this policy (whether Title IX Cases, Texas Law Cases, or Institutional Offenses), the following sexual misconduct is considered to be prohibited conduct: 1) Sexual Assault; 2) Sexual Violence; 3) Sexual Harassment; 4) Domestic or Dating Violence; 5) Stalking; 6) Sexual Exploitation; 7) Sexually Inappropriate Conduct; and 8) Retaliation.

5. Title IX Coordinator, Advocates for Campus Trust and Safety Committee, and Related Parties

a. Title IX Coordinator

The Title IX Coordinator directs compliance with DBU’s Sexual Misconduct Policy and Title IX. The Title IX Coordinator’s activities include, but are not limited to, the following:

- Communicating with all members of the DBU community regarding this Sexual Misconduct Policy and Title IX and providing information about how individuals may access their rights; [OBJ]
- Overseeing DBU’s administration of its applicable policies, including recordkeeping, timeframes, and other procedural requirements relating to this Sexual Misconduct Policy and Title IX; [OBJ]
- Conducting training regarding Sexual Misconduct issues, Title IX, the Violence Against Women Reauthorization Act of 2013 (VAWA), and prohibited conduct defined in this policy; and
- Responding in accordance with the procedures set forth in this policy to any complaint or report regarding conduct that may violate this policy. This response will include, but not be limited to, providing supportive measures, explaining confidentiality, explaining the options for choosing to file a formal complaint, and instituting investigative and adjudicative processes for cases involving a formal complaint.

The Title IX Coordinator’s contact information is:

Ashlee Kamosky
Title IX Coordinator
Dallas Baptist University
3000 Mountain Creek Parkway
Dallas, Texas 75211
Office: Dean Learning Center 104D
TitleIX@dbu.edu
214-333-7286 (office)
<http://www.dbu.edu/title-ix>

The Deputy Title IX Coordinators’ contact information is as follows:

Molly Taylor
Deputy Title IX Coordinator
Dallas Baptist University
3000 Mountain Creek Parkway
Dallas, Texas 75211
Office: Global Missions Center 213
214-333-5960

Cicely Jefferson
Deputy Title IX Coordinator
Dallas Baptist University
3000 Mountain Creek Parkway
Dallas, Texas 75211
Office: Collins Learning Center 311A
214-333-5219

Mark Hale
Deputy Title IX Coordinator
Dallas Baptist University

Colby Williamson
Deputy Title IX Coordinator
Dallas Baptist University

3000 Mountain Creek Parkway
Dallas, Texas 75211
Office: Learning Center 321A
214-333-5503

3000 Mountain Creek Parkway
Dallas, Texas 75211
Office: Dean Learning Center 104
214-333-5706

Jennifer Covey
Deputy Title IX Coordinator
3000 Mountain Creek Parkway
Dallas, Texas 75211
Office: Mahler 2nd floor
214-333-5726

Carter Willis
Deputy Title IX Coordinator
3000 Mountain Creek Parkway
Dallas, Texas 75211
Office: Horner Hall 103
214-333-5867

b. Advocates for Campus Trust and Safety (ACTS) Committee:

In addition to the Title IX Coordinator, the Advocates for Campus Trust and Safety (ACTS) Committee is an integral part of administering this Sexual Misconduct Policy. The role of this committee is to: a) help coordinate the overall education and prevention efforts for the campus community relating to sexual misconduct; and b) serve as an investigative and decision-making body when violations of this policy are alleged. Members of the ACTS Committee are appointed by the President of the University and represent a broad cross-section of the campus community, including, but not limited to, Academic Leadership, Student Affairs, Human Resources, and Athletics.

c. Title IX Special Investigators

In situations involving formal complaints, Title IX Special Investigators, who will be appointed by the President of the University and go through required training, will carry out all initial investigations and report their findings to the ACTS Committee.

d. Special Adjudicator

For situations involving formal complaints, a Title IX Special Adjudicator has been appointed by the President to handle all appeals of rulings by the ACTS Committee.

6. Confidentiality, Reporting, and Filing a Claim

a. Reporting Options

DBU encourages the reporting of all cases of sexual misconduct or other forms of sexual discrimination. Complainants are encouraged to report any violation of this policy as soon as possible to maximize DBU's ability to respond promptly and effectively. A complainant can expect to have reports taken seriously by the University when reported, and to have those incidents investigated and equitably resolved in a prompt manner through these procedures.

There are three ways that reports of sexual misconduct can be made: 1) reporting to Confidential Sources; 2) reporting to Mandatory Reporters; and 3) reporting directly to the Title IX Coordinator or another official listed in 5(d) below.

The University has designated the Confidential Sources listed below under 6(b) as people who may listen to complaints and will not be required to report the details of that complaint to DBU's Title IX Office (though they are required to provide non-identifying statistical information on all cases). On the other hand, any report made to any of the Mandatory Reporters listed in 6(c) must then be reported by that Mandatory Reporter to the Title IX Coordinator or one of the DBU officials listed in 6(d) below. However, even where a report is made to a Mandatory Reporter, the complainant will still have the right to make the decision on whether to fully move forward with instituting a formal complaint, as outlined more fully in 6(e) below.

At the complainant's request, DBU will assist the complainant in contacting local law enforcement. It is important to note that a victim of a sexual misconduct crime has a choice of whether to report the crime to law enforcement, to be assisted by DBU in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

b. Confidential Sources

If a complainant would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-campus licensed professional counselors and staff at the DBU Counseling Center (if the information they receive is in the scope of their work in the Counseling Center)
- On-campus licensed medical professionals (if the information they receive is in the scope of their work in the Health Services Office)
- On-campus Confidential Consultants and Advisors
- Off-campus:
 - Licensed professional counselors
 - Local rape crisis counselors
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Legal Counsel

All DBU Confidential Sources will maintain confidentiality except in cases of immediate threat or danger and/or abuse of a minor.

Campus counselors are available to help free of charge as a service to all parties, subject to the availability of counselors and any potential conflicts of interest.

c. Mandatory Reporters

Reports of sexual misconduct made to any other DBU employee must be reported to the Title IX Coordinator by the employee in accordance with Paragraph 2 above.

d. Title IX Coordinator and Deputies:

Reports can also be made directly to the Title IX Coordinator or one of the Deputy Title IX Coordinators. Reports can be made in-person, via email, by phone, or via DBU's Title IX website form (in which reports may also be made anonymously). Contact information for the Title IX Coordinator and Deputy Title IX Coordinators is found in Section 5(a).

A complaint is only a Title IX Case when DBU has actual knowledge of the complaint. DBU has actual knowledge when a complaint is made to the Title IX Coordinator.

e. Initial Complaints

Initially, any complaint will be considered an informal complaint and the Title IX Coordinator, or a Deputy Title IX Coordinator will be responsible for meeting with the complainant, alerting the complainant of his/her rights as a complainant, discussing supportive measures the University can provide, providing the appropriate supportive measures, and helping the complainant understand the process for filing a formal complaint if he/she so chooses.

To initiate an investigation and adjudication, Title IX Cases and Texas Law Cases must move from being an informal complaint to a formal complaint by meeting the following guidelines:

- a) an allegation of a Title IX or Texas Law case is made; and
- b) either
 - i. The alleged victim makes the choice to move forward with the investigation and adjudication of the case by signing a written formal complaint document indicating that he/she wishes to proceed with the institution investigating and adjudicating the case; or
 - ii. If the alleged victim does not wish to sign a formal complaint document, the Title IX Coordinator will utilize the procedure found in Section 3 and may, on his/her own motion, sign a formal complaint document if it is determined that it is essential to initiate formal complaint procedures on the Title IX Coordinator's own motion to protect the community at large because: a) the allegation involves such a significant risk to the safety of the overall community; or b) it is advisable for another reason to take up the case to protect members of the campus community. Otherwise, the Title IX Coordinator may close the case and will create a record for the University's Title IX files detailing why this decision was made and how it was not clearly unreasonable under Title IX standards.

For cases involving only Institutional Offenses, formal complaints may be made using the complaint procedures outlined in the Student Code of Conduct or Employee Handbook (whichever applies to the person making the allegation).

Formal reporting still affords privacy to the complainant, and only a small group of officials who need to know about the report will be told.

Information will be shared as necessary with investigators, witnesses, and the respondent. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

Formal complaints may be withdrawn at any time by a complainant, though if a complaint is withdrawn, the Title IX Coordinator will still utilize the procedure found in Section 3 and may, on his/her own accord, sign a formal complaint document if it is determined that the allegation involves such a significant risk to the safety of the overall community that it is necessary to initiate formal complaint procedures on the Title IX Coordinator's own motion to protect the community at large.

f. Amnesty

In order to encourage reports of conduct prohibited under this policy, an individual who, in good faith, reports being the victim of, or witness to sexual harassment, sexual assault, dating or domestic violence, or stalking, or who assists in the investigation of a report, will be entitled to amnesty from disciplinary actions by the University relating to code of conduct violations that occurred as a part of the incident in question or which were reasonably related to the incident. DBU reserves the right to investigate whether a report was made in good faith before granting amnesty. Additionally, amnesty does not apply to the reporting of an individual's own acts, if any, of sexual misconduct.

g. Good Faith, False Statements, and Obstruction

Allegations must be made in good faith and not made out of malice. It is a violation of DBU policy to knowingly make a false, malicious, or frivolous accusation of discrimination, harassment, sexual misconduct, or retaliation. However, mere failure to prove a complaint is not equivalent to a false, malicious, or frivolous accusation. All parties, witnesses, and advisors in any proceeding under this policy are expected to be honest and truthful when meeting with Title IX officials, investigators, when testifying in any proceeding, providing written evidence, or engaging in any other communication relating to a proceeding under this policy. It is a violation of this policy for any party, witness, or advisor to make a false or misleading statement of any kind in a communication that is part of these proceedings. It is also a violation of this policy to obstruct this process by interfering with the orderly administration of an investigation or adjudication of a sexual misconduct case or potential case. Obstruction may include, but is not limited to, influencing, threatening, harming, intimidating, or impeding a witness, potential witness, investigator, adjudicator, or ACTS Committee member, or by furnishing false information or otherwise impeding a sexual misconduct case or potential case.

h. Preserving Evidence

An individual who experiences any form of sexual assault is strongly encouraged to seek immediate medical care at a hospital or other medical facility that provides services for victims of sexual assault. Individuals can undergo a medical exam to properly collect and preserve physical evidence of the sexual assault. It is important to preserve forensic and other physical evidence that may assist in proving the alleged criminal offense occurred and such evidence may be helpful in obtaining a legal protection order against the respondent. Therefore, a medical exam should be performed immediately after the event, if possible. With the individual's consent, the physical evidence collected during this medical exam can be used as part of a criminal investigation. Likewise, if the individual consents, this medical information could be useful evidence in a case investigated and adjudicated under this policy by the University.

i. Case Designations, Interim Measures, and Initial Actions

Upon receiving a formal complaint signed by the alleged victim or by the Title IX Coordinator, the Title IX Coordinator or a Deputy Title IX Coordinator will endeavor to do the following as soon as possible: a) contact the complainant and respondent to alert them of the allegation and of the Confidential Consultant and the Pool of Advisors that are available to them; b) alert the Confidential Consultants assigned to the case and ask them to contact the complainant and respondent to offer their services; c) if either or both parties choose an Advisor from the Pool of Advisors, alert the Advisor(s) and alert the other party of the choice of Advisor.

Under (a) above, the written notice of the allegation will be provided to both parties, and will disclose sufficient details of the complaint, conduct at issue, and date and location of the alleged incident for the parties to be alerted of the issues involved; likewise, this notice will provide a statement that the respondent is presumed not responsible until he/she is proven responsible, a statement concerning the parties' right to select an advisor of their choosing, and a statement disclosing the institution's policy on making false statements.

When a complaint is made, it will be the responsibility of the Title IX Coordinator and the Deputy Title IX Coordinator assigned to the case, along with the Vice President for Student Affairs (if the respondent is a student), or the Human Resources Employee Relations Manager (if the respondent is a staff member) or Provost (if the respondent is a faculty member) to make a determination on whether the case would best be handled using this policy or another applicable institutional policy or both.

Supportive measures (which will be offered to complainants even if they do not file a formal complaint) may include, but will not be limited to, a no-contact order, revision of academic schedule or accommodations regarding exams/assignments, change in housing arrangements, a change in work schedule/job assignment, removal from campus, or other supportive measures that the Title IX Coordinator and the Deputy Title IX Coordinator assigned to the case, along with the Vice President for Student Affairs (if the respondent is a student), or the Vice President of Financial Affairs (if the respondent is a staff member) or Provost (if the respondent is a faculty member) believe will provide appropriate protection and support for the parties involved. As mandated by state law, a Complainant or Respondent in any case involving alleged sexual harassment, sexual assault, dating/domestic violence, or stalking may drop a course in which both parties are enrolled without any academic penalty upon request by the party to the Title IX Coordinator.

Proceedings under this policy are separate and distinct from Texas' criminal process. These proceedings may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

j. Presumptions and Other General Matters

All respondents in cases under this policy are presumed not responsible for a violation of this policy until they are proven responsible. The University will bear the burden of gathering evidence and proving responsibility. In assessing whether a respondent is responsible, the University will use the clear and convincing evidence standard, which is defined in the Definitions Section of this policy found in Appendix A. There will be no presumptions of credibility or bias given for any

party or witness; each party or witness's credibility will be objectively judged and weighed, and each party will be objectively treated with respect and without bias.

k. Informal Resolution Process

If a formal complaint is filed, at the outset of the case, the Title IX Coordinator or the Deputy Title IX Coordinator assigned to the case will provide the parties with information about a voluntary informal resolution process if one is available at that time. If available, the parties will be given the option to choose this informal resolution process to resolve the issues in the case rather than using the procedures found below.

Both parties must consent to using this informal resolution process for it to be available. Likewise, this informal resolution process is not available where the allegations in the case involve any of the following: 1) Non-Consensual Sexual Penetration; 2) Domestic or Dating Violence; 3) allegations that an employee (who is not also a student themselves) committed sexual harassment, sexual assault, dating/domestic violence, or stalking against a student; or 4) other situations where the Title IX Coordinator and the Deputy Title IX Coordinator assigned to the case, along with the Vice President for Student Affairs (if the respondent is a student), or the Vice President of Financial Affairs (if the respondent is a staff member) or Provost (if the respondent is a faculty member) determine that good cause exists in favor of DBU protecting its faculty, staff, students, and visitors by not allowing the parties to engage in an Informal Resolution Process.

This informal resolution process provides a mediation-style setting where the parties are put into separate rooms and a facilitator goes back and forth between the rooms to determine if a resolution can be reached. The parties may choose to have their Advisor and/or Confidential Consultant present with them during this process, but the parties themselves will have to sign any agreement reached.

For a resolution to be binding on the parties, it must be: 1) agreed to in writing by both parties; and 2) the Title IX Coordinator, Deputy Title IX Coordinator assigned to the case must find that good cause does not exist in favor of disapproving the settlement in order to protect the interests and safety of DBU's faculty, staff, students, and visitors. If a resolution is reached as a part of this process and meets the criteria above, the Title IX Coordinator will dismiss the case and enter the resolution agreement as a binding document on the parties. Should either party later break this agreement, the other party may file a grievance with the Title IX Coordinator. Should a resolution not be reached as a part of this informal resolution process, the case will proceed using the investigation and adjudication process described below, though all statements made to the facilitator in this process will remain confidential and will not be able to be used as evidence in any further proceeding. Either party may, at any time, voluntarily withdraw from the Informal Resolution Process without penalty.

7. Procedures for Title IX Cases and Texas Law Cases

Investigation

Upon receiving notice from the Title IX Coordinator, the investigator(s) will commence an investigation into the allegations involved. During this investigation process, the investigator(s) will attempt to interview both the complainant and respondent and any witnesses who may have

relevant information about the incident(s) in question. The investigator(s) will endeavor to provide the parties with a reasonable time before their interview so that this gives the parties time to prepare for the interview. Each party must select an advisor of his/her choice who may accompany him/her to any investigative meeting, but the advisor will not participate in such meeting.

In addition to interviewing the witnesses and parties, the investigator(s) will endeavor to collect and review evidence, including, but not limited to, evidence submitted by either party, the Title IX Coordinator, or other persons involved in gathering evidence relating to the allegation. This includes both exculpatory and inculpatory evidence as available. Both the complainant and respondent and their advisors will have reasonable and equitable access to all evidence relevant to the alleged violation in the institution's possession, including any statements made by the parties or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality. All evidence directly related to the allegations in the case will be provided to the parties as a part of the Investigator's Report, as detailed below.

Within a reasonable time (typically within 60 business days from the date of issuing Notice of the Case to the investigator(s)), the investigator(s) will complete their investigation and prepare a written report for the ACTS Committee.

If a student withdraws from DBU or an employee resigns his/her employment with DBU pending an investigation as to whether the student or employee committed sexual harassment, sexual assault, dating/domestic violence, or stalking, DBU will continue the investigation or disciplinary process and will not issue a transcript to the student until a final determination regarding responsibility is made.

Upon the conclusion of the investigation and the drafting of the written report, the investigators will provide a copy of the written Investigator's Report, along with all evidence directly related to the allegations in the case, to the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, the Complainant, the Respondent, and their respective Advisors.

Either party may provide a written response to the Investigator's Report via email to TitleIX@dbu.edu by the next regular business day (Monday through Friday, other than University holidays) at 10 a.m. following ten (10) days from when the Investigator's Report was sent to the parties. Any written response received from a party will be considered by the investigator(s), who may, among other things, revise the Report, reopen the investigation, and/or append the response(s) as appendices to the Report. Upon making any changes and appending any responses, the investigator(s) will provide the Final Report to the Title IX Coordinator or Deputy Title IX Coordinator assigned to the case, the ACTS Committee, the parties, and their Advisors.

Hearing

A formal hearing will be scheduled as soon as possible after the investigators' Final Report is received and all parties have had the requisite time to review this Report. The hearing will typically be scheduled 7-14 business days after the issuance of the Final Report.

The following individuals will make up the hearing panel, and will serve as adjudicators for these cases:

- Cases Where the Respondent is a student: VP for Student Affairs and at least two other ACTS Committee member.
- Cases Where the Respondent is an Employee: Provost, Vice President for Financial Affairs and at least one other ACTS Committee member.

The Hearing Officer will serve as the Chair of the Hearing Panel, and will be responsible for deciding all procedural questions, relevancy determinations, or other evidentiary questions that may arise and ensuring that all parties and Advisors follow the Hearing and Evidence Manual, which will be provided to the parties and their advisors along with the original notice of the case. The Hearing Officer will be the VP for Student Affairs (in cases where the respondent is a student), the VP for Financial Affairs (where the respondent is an employee) or another trained individual on the ACTS Committee chosen by the Title IX Coordinator and the Deputy Title IX Coordinator assigned to the case, along with the Vice President for Student Affairs (if the respondent is a student), or the VP for Financial Affairs (if the respondent is a staff member) or Provost (if the respondent is a faculty member). The provisions of the Hearing and Evidence Manual will be binding on all parties and their Advisors, and they will be expected to conduct themselves in all hearings in accordance with this Hearing and Evidence Manual.

In certain instances, it may be necessary for an ACTS Committee member to recuse themselves from the hearing if the committee member has a direct reporting relationship or a strong personal or business relationship with either the complainant or respondent which would create a conflict of interest. For example, if either the complainant or respondent was a member of one of the University's athletic teams and the Director of Athletics was then serving on the ACTS Committee, it would be necessary for the Director of Athletics to recuse himself/herself from the hearing because of the potential for a conflict of interest. Likewise, if one of the persons listed above for a hearing panel is unavailable to serve on that hearing panel because of illness, vacation, because they have recused themselves, or for other extenuating circumstances, a replacement hearing panel member will be chosen by the Title IX Coordinator. The General Counsel for the University may sit in on any hearing to provide counsel to the University officials involved in the hearing but will not ask questions of witnesses or be involved in the adjudication of the case.

In general, both parties will be given the opportunity to make an opening statement, and their advisors will be given the opportunity to present witnesses and cross-examine all opposing parties or witnesses. Hearing Panel members will also be given the opportunity to ask questions from all witnesses. As outlined more fully in the Hearing and Evidence Manual, complainants may not be asked questions about their prior sexual behavior or sexual predisposition unless the evidence of prior sexual behavior is offered to prove someone other than the respondent committed the alleged offense, or where prior sexual behavior evidence is specifically about the complainant and the respondent and is offered to prove consent.

In addition to the witnesses and evidence presented by the parties at the hearing, the Hearing Panel will consider the evidence of the investigators as outlined in their written report.

At the conclusion of the hearing, the Hearing Panel will deliberate and make a ruling by majority vote as to whether, under a clear and convincing evidence standard, the respondent violated this policy. If a violation is deemed to have occurred, the ACTS Committee will also issue appropriate remedies and sanctions against the respondent.

Remedies and sanctions will be determined based on the seriousness of the misconduct and the responsible respondent's prior disciplinary history. Remedies and sanctions for students may

include, but will not be limited to, a formal admonition, restrictions from extracurricular activities, dismissal from residence halls/apartments, move to online classes, removal or reduction of institutional scholarships, disciplinary probation, suspension, expulsion, or withholding of degree. Possible remedies and sanctions for faculty/staff may include, but will not be limited to, a verbal/written warning, demotion, reassignment, probation, suspension, or termination. Community service, mandatory counseling/training, or other measures may be added to these remedies and sanctions for students, faculty, or staff, as appropriate.

After making these rulings, the Hearing Officer will, within five (5) business days, prepare a written determination that details: a) the allegations at issue; b) a description of the procedural steps taken throughout the case; c) the rationale for the determination for each allegation; d) statement of any disciplinary sanctions and whether any remedies will be provided to the complainant; and e) a description of the procedures and permissible grounds for appeal. This written determination will be given simultaneously by email to both parties and will also be provided to the parties' Advisors. The recording of the hearing will be transcribed within a reasonable time and made available to the parties and their Advisors at the time the Ruling is issued and thereafter the Title IX Coordinator will endeavor to provide a transcript of the hearing within a reasonable time after the hearing.

The investigation and hearing procedures will be completed within a reasonable time as outlined above unless extenuating circumstances require additional time. If additional time is needed, both parties will be notified.

Notations on Transcripts

If, because of sanctions other than sanctions for academic or financial reasons, a student is ineligible to reenroll at DBU, state law mandates that DBU include on the student's transcript a notation stating that the student is ineligible to reenroll in DBU for a reason other than an academic or financial reason. On request of a student or at the discretion of the University, DBU may remove this notation if: (1) the student is eligible to reenroll at DBU; or (2) DBU determines that good cause exists to remove the notation.

Appeal

A Respondent and Complainant both have the right to submit an appeal. The three available grounds for appeal are:

- New information that would change the outcome and was not reasonably available at the time of the determination;
- Any participant in the process had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent specifically that would change the outcome of the matter; and/or
- Procedural irregularity that would change the outcome of the matter.

An appeal is not a re-hearing of the case or decision. The Title IX Coordinator may summarily deny an appeal if it is not based on one of the enumerated grounds for appeal.

A party wishing to appeal a determination must file a written appeal statement within five (5) business days of the date the Hearing Officer's final determination was shared with the parties.

The appeal statement must articulate one of the above-enumerated grounds and should be emailed to the Title IX Coordinator.

An Appellate Officer will decide the appeal.

Appellate Officer. If the appeal is based on one of the above-enumerated grounds for appeal, the Title IX Coordinator will appoint an Appellate Officer. The Appellate Officer's role is limited to reviewing the underlying record of the investigation and hearing, the appealing party's ("Appellant") written appeal statement, any response to that statement by the other party ("Appellee"), and information presented at a meeting of the Appellate Officer, if convened.

Response to Appeal. The Title IX Coordinator will provide written notice to the Appellee that an appeal has been submitted and will give the Appellee an opportunity to review the appeal statement. The Appellee may submit a written response to the appeal ("response").

Meetings. On their own or at the request of the Appellant or Appellee, the Appellate Officer may convene a meeting to give the parties an opportunity to amplify the reason(s) for the appeal or the response. The Appellate Officer has full discretion to set the terms and length of the meeting. If a meeting is convened, the Appellant and Appellee may bring an advisor of their choice to the meeting. The advisor's role is limited to quietly conferring with their advisee and may not address the Appellate Officer. In the event an appeal alleges a procedural error, the Appellate Officer may request that appropriate personnel attend a meeting to gather more information about the alleged procedural error.

Written Decision. The Appellate Officer will provide written notification of the final decision to the Appellant and Appellee simultaneously.

The Appellate Officer will notify the parties of its decision regarding an appeal in writing within 20 business days from receipt of the appeal response or any scheduled meeting. The decision of the Appellate Officer will be final and no subsequent appeals will be permitted.

8. Procedures in cases where the Complainant does not File a Formal Complaint or Wishes to Remain Anonymous

If the complainant alleges conduct prohibited by this policy but does not wish to pursue a formal complaint and/or requests that his or her complaint remain anonymous, federal, and state laws may nevertheless require the University to investigate and take reasonable action in response to the complainant's request. The Title IX Coordinator or Deputy Title IX Coordinator assigned to the case will inform the complainant that the University's ability to respond may be limited if the complainant is not a participant in the investigation. In such cases, federal and state laws require the University to evaluate the complainant's request in the context of the University's commitment to provide a safe environment for all students.

To protect the safety of the campus community, the Title IX Coordinator may investigate allegations of violations of this policy even absent the filing of a formal complaint or report, or if a complaint or report has been withdrawn. After reviewing the alleged incident(s), the Title IX Coordinator and the Deputy Title IX Coordinator assigned to the case, along with the Vice President for Student Affairs (if the respondent is a student), or the Human Resources Employee Relations Manager (if the respondent is a staff member) or Provost (if the respondent is a faculty

member) will meet to determine if the allegation presents an imminent and serious threat to the health and safety of the complainant or others on campus or prevents the university from ensuring equal access on the basis of sex to its education program or activity such that they feel it is necessary to initiate formal complaint procedures on their own motion to protect complainant, another person, or the community at large.

In making this assessment, they will consider: 1) the complainant's request not to proceed with initiation of a complaint; 2) the complainant's reasonable safety concerns regarding initiation of a complaint; 3) the risk that additional acts of sex discrimination (including, but not limited to, sexual assault, domestic violence, dating violence, stalking, or sexual harassment) would occur if a complaint is not initiated; 4) the severity of the alleged incident(s), including whether this misconduct, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the misconduct and prevent its recurrence; 5) the age and relationship of the parties, including whether the respondent is an employee of the university; 6) the scope of the alleged incident(s), including information suggesting a pattern, ongoing misconduct, or misconduct alleged to have impacted multiple individuals; 7) the availability of evidence to assist a decisionmaker in determining whether misconduct occurred; 8) whether the university could end the alleged misconduct and prevent its recurrence without initiating its grievance procedures under this Policy; 9) whether the allegation involved aggravating factors (e.g., weapons); 10) whether there was a question of consent; 11) whether either party was incapacitated. The risk to the campus community will be especially present in cases indicating pattern, predation, threat, weapons, and/or violence.

If it is decided that the allegation presents an imminent and serious threat to the health and safety of the complainant or others on campus or prevents the university from ensuring equal access on the basis of sex to its education program or activity such that it is necessary to initiate complaint procedures, then the Title IX Coordinator will institute the complaint procedures outlined in Section 3 of this policy, as appropriate. If it is decided that the allegation does not meet that standard, the Title IX Coordinator may close the case and will create a record for the University's Title IX files detailing why this decision was made and how it was not clearly unreasonable under Title IX standards. Likewise, if the University institutes a complaint on his/her own but, after an investigation, it is clear to the Title IX Coordinator and the Deputy Title IX Coordinator assigned to the case, along with the Vice President for Student Affairs (if the respondent is a student), or the Human Resources Employee Relations Manager (if the respondent is a staff member) or Provost (if the respondent is a faculty member) that the case does not, in fact, present an imminent and serious threat to the health and safety of the complainant or others on campus or prevents the university from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator's decision to institute the case may be withdrawn and the case closed.

9. Procedure for Institutional Offenses

The University will classify any conduct prohibited by this policy that does not fall within the scope of Title IX Cases or Texas Law Cases as Institutional Offenses. The University will handle Institutional Offenses according to complaint and grievance procedures contained in the Employee Handbook or Student Handbook, whichever is applicable, unless the case falls within the discretionary decision outlined below.

In certain sexual misconduct cases involving sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, sexually inappropriate conduct, and other sexual misconduct outlined in the definitions section of this policy which do not meet the geographic or other requirements to be handled as Title IX cases or Texas Law Cases, but in which the nexus to DBU's campus or one of its educational activities or some other compelling reason weighs in favor of DBU protecting its faculty, staff, students, and visitors, the Title IX Coordinator and the Deputy Title IX Coordinator assigned to the case, along with the Vice President for Student Affairs (if the respondent is a student), or the Human Resources Employee Relations Manager (if the respondent is a staff member) or Provost (if the respondent is a faculty member) may make a decision to utilize the procedures outlined in this policy.

10. Prevention, Awareness, and Training

One of the central roles of the Title IX Coordinator and the ACTS Committee is educating the campus community on how to prevent sexual misconduct. The following are some of the many activities that happen on campus in this continuing effort to educate faculty, staff, and students on this important issue:

- Presentation to all "Foundations for Excellence" classes (required of all traditional-age freshmen) on sexual assault reporting and prevention – Occurrence: Annually
- Presentation at Faculty Council and/or Faculty Workshops about Title IX, sexual assault, and the role of faculty in this process – Occurrence: Annually
- Providing a Title IX Training Video for Faculty, Staff, and Students on DBU's Title IX Website and in all course shells on Blackboard – Occurrence: Annually
- Presentation to all campus residents at the Residence Life and Apartment Life meetings about Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Presentation to all Resident Assistants (RAs) about Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Presentation to all members of fraternities and sororities about sexual assault reporting and prevention – Occurrence: Annually
- Presentation to all student athletes and coaches at the Student Athlete Orientation about Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Presentation to the Student Government about Title IX and sexual assault reporting and prevention – Occurrence: Annually
- Presentation to all DBU ROTC students about sexual assault reporting procedures and prevention at UTA at the request of the ROTC program at UTA – Occurrence: As requested by UTA ROTC
- Letter sent to all student-athletes informing them of campus contacts and resources relating to Title IX. All coaches and athletics staff members informed of the importance of reporting cases of sexual assault, violence, or misconduct if they become aware of such a situation – Occurrence: Annually
- Training at new faculty orientation and new staff orientation on Title IX and sexual assault reporting and prevention – Occurrence: Annually

- Memo regarding DBU’s Sexual Misconduct Policy sent by the President to all Faculty and Staff (including Adjunct Faculty, Part-time Staff, and Student Workers) – Occurrence: Annually
- Email to all students at the beginning of the Fall, Spring, and Summer terms regarding Title IX (including a copy of the Policy) – Occurrence: Annually
- The Title IX Coordinator, ACTS Committee, and all other investigators, facilitators, and decision makers in the Title IX process receive annual training. Annually, the University updates its website to note these trainings that each of these personnel receive, and these training materials will be made available to the public on request.

Appendix A

Definitions

For purposes of this policy, the below definitions apply.

Complainant

The term complainant refers to the individual(s) who has been the subject of prohibited conduct, regardless of whether that individual makes a complaint or seeks disciplinary action.

Respondent

The term respondent refers to the individual(s) accused of prohibited conduct.

Consent

DBU upholds a biblical sexual ethic that promotes consenting intimate sexual expression only within a marriage between one biological man and one biological woman. Intimate sexual expression outside the Biblical boundary of marriage may increase the risk of miscommunication about consent.

Consent is voluntary, informed, and mutual. Consent is an affirmative and willing agreement to engage in specific forms of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely chosen to engage in sexual contact.

Refusal to consent does not have to be verbal; it can be expressed with gestures, body language or attitude. Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must

cease. A prior sexual history between the Complainant and Respondent does not constitute consent.

It is the initiator of any sexual activity to ensure that they have the other person's consent before engaging in sexual activity. Consent may never be obtained through force, coercion (manipulation), or intimidation. Sexual contact with anyone who is incapable of giving consent because he or she is incapacitated due to alcohol and/or drug consumption, because of a mental or physical impairment, or for some other reason is a violation of this policy. People who are unconscious, for any reason, or are physically unable to communicate, are assumed to be incapable of giving consent.

In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances, including, but not limited to, the extent to which a complainant affirmatively used words or actions indicating a willingness to engage in sexual contact, free from manipulation, intimidation, fear, or coercion; whether a reasonable person in the respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the respondent, demonstrating incapacitation or fear. A key consideration in evaluating consent will be whether the respondent exercised undue influence over the complainant because the respondent was a member of the clergy, mental or physical health services provider, or held some other position of trust and who exploited the complainant's emotional dependency on the respondent.

Coercion or Force

Coercion is verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to compel someone to engage in sexual contact.

Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether to participate in sexual contact or using one's strength to impose on someone physically to gain sexual access.

Incapacitation

Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. The relevant standard that will be applied is whether the respondent actually knew, or a reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to sexual activity. Likewise, inducing incapacitation for sexual purposes is a violation of this policy. Inducing incapacitation for sexual purposes includes using drugs, alcohol, or other means with the intent to affect or having an actual

effect on the ability of an individual to consent or refuse to consent (as “consent” is defined in this Policy) to sexual contact.

Sexual Violence

The following behaviors constitute sexual violence and are prohibited under this policy. All forms of sexual violence are serious offenses and will result in University discipline. Sexual violence involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another person's state of incapacitation, will be deemed especially egregious and may result in expulsion or termination of employment. The consumption of alcohol or use of illegal substances will not ordinarily constitute a mitigating factor or circumstance when it contributes to, or is involved in, an alleged act of sexual violence.

- Non-Consensual Sexual Penetration: Any act of vaginal or anal penetration by a person's penis, finger, other body part, or an object, or oral penetration by a penis, without consent.
- Forceful Non-Consensual Sexual Contact: Any sexual touching other than non-consensual sexual penetration that occurs without consent and is the result of coercion, force, or incapacitation. Examples of forceful non-consensual sexual contact may include the following when it is a result of coercion, force, or incapacitation: genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.

Non-Violent Sexual Contact

Any sexual touching that occurs without consent other than non-consensual sexual penetration or forceful non-consensual sexual contact. Examples of other non-violent sexual contact may include the following: genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.

Sexual Harassment

Sexual harassment is any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when the conduct falls into one of the following categories:

- Conduct on the basis of sex by which an employee of the University conditions the provision of an aid, benefit, or service of the University on a student's or employee's participation in unwelcome sexual conduct [Quid Pro Quo Harassment]
- Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity [Hostile Environment Harassment].
 - Whether the hostile environment has been created is a fact-specific inquiry that includes consideration of the following: a) the degree to which the conduct affected the complainant's ability to access the University's education program or activity; b) the type, frequency, and duration of the conduct; c) the parties' ages, roles within the University, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; d) the location of the conduct

and the context in which the conduct occurred; and e) other sex-based harassment in the University's education program or activity.

Domestic or Dating Violence

This policy prohibits acts of violence, threat, or intimidation that harm or injure a partner in a current or former social, dating, or marital relationship. These acts include, but are not limited to, sexual or physical abuse or the threat of such abuse. Dating or marital relationship violence can be a single act or pattern of behavior.

Stalking

Stalking under this policy is a course of conduct (i.e., more than one act) directed at a specific person which would cause a reasonable person to feel fear, to experience substantial emotional distress, or to fear for their safety or the safety of a third person. Acts that together constitute stalking may be direct actions or may be communicated by a third party, and can include, but are not limited to, threats of harm to self, others, or property; pervasive pursuing or following; pervasive non-consensual (unwanted) communication by any means; trespassing; and surveillance or other related types of observation performed in a harassing or menacing manner.

Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited. Examples of behavior that could rise to the level of sexual exploitation include:

- Visual (e.g., video, photograph) or audio-recording of sexual activity;
- Producing, obtaining, and/or distributing photos, videos, audio recordings, streaming, other images, or information of an individual's sexual activity, intimate body parts, or nakedness;
- Intentionally observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Knowingly transmitting a sexually transmitted infection (STI), such as HIV, to another without disclosing your STI status;
- Exposing one's genitals, buttocks, or breasts (if female) in non-consensual circumstances, or inducing another to expose his or her genitals, buttocks, or breasts (if female);
- Distributing or forcing others to view pornography; or
- The exploitation of a person through force, fraud, or coercion for the purpose sex.

Sexually Inappropriate Conduct

Sexually Inappropriate Conduct is defined as: Sexual conduct that is unwelcome, abusive, unprofessional, or falls within the definitions under "Other Institutional Offenses" below. Examples include, but are not limited to, lewdness and obscene or sexually offensive or sexually suggestive gestures and comments; creating a sexually inappropriate work environment; sexual touching that is unwelcome, abusive, or unprofessional; requests for sexually inappropriate or

sexually suggestive tasks or favors; sexually inappropriate invasion of personal space or privacy; or other sexually inappropriate behavior in the living, learning, or workplace environment

Retaliation

This policy prohibits any attempt to seek retribution against an individual or group of individuals involved in filing a complaint or report under this policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this policy. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats, and intimidation. For purposes of Title IX, retaliation is defined as intimidation, threats, coercion, or discrimination against any person committed for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX, including informal resolution. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic, or University-controlled living environment of an individual or if they hinder or prevent the individual from effectively carrying out his/her university responsibilities. All individuals and groups of individuals are prohibited from engaging in retaliation and will be held accountable under this policy.

Clear and Convincing Evidence Standard

“Clear and convincing” means the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established [Texas Civil Practices and Remedies Code 41.001(2)].

Appendix B

Related Information & Statutes

[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 and its implementing regulations, 34 C.F.R. Part 106](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e-2000e-17 and its implementing regulations 29 C.F.R. §1604 11.](#)

[Clery Act, 20 U.S.C. 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

If a person would like to press criminal charges for an alleged violation of any of the below criminal laws, or would like to seek an order of protection, the definitions contained in the Texas Penal Code and Family Code would apply, not the internal definitions used in this policy.

Dating Violence: “an act, other than a defensive measure to protect oneself, by an actor that is committed against a victim or applicant for a protective order: with whom the actor has or has

had a dating relationship; or because of the victim's or applicant's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim or applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault... 'Dating relationship' means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of the length of the relationship; the nature of the relationship; and the frequency and type of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a 'dating relationship.'" [Texas Family Code Section 71.0021](#).

Domestic (Family) Violence: "an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself, or abuse by a member of a family or household toward a child of the family or household, or dating violence." [Texas Family Code Section 71.004](#).

Sexual Assault: "a person commits an offense if the person (1) intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or (2) intentionally or knowingly causes the penetration of the anus or sexual organ of a child by any means; causes the penetration of the mouth of a child by the sexual organ of the actor; causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

A sexual assault is without the consent of the other person if: the actor compels the other person to submit or participate by the use of physical force, violence, or coercion, the actor compels the other person to submit or participate by threatening to use force or violence against the other person, or to cause harm to the other person, and the other person believes that the actor has the present ability to execute the threat; the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; the actor is a public servant who coerces the other person to submit or participate; or the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor. The actor is a clergyman who causes the other person to submit or

participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other. 'Child' means a person younger than 17 years of age. 'Spouse' means a person who is legally married to another." [Texas Penal Code Section 22.011](#).

Stalking: "a person who, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that: (1) the person knows or reasonably should know the other person will regard as threatening including bodily injury or death for the other person, bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship, or fear that an offense will be committed against the other person's property, and (2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and (3) would cause a reasonable person to fear bodily injury or death for himself or herself, or bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship, or fear that an offense will be committed against the person's property; or feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended. A fact finder may find that different types of conduct described above, if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct." [Texas Penal Code Section 42.072](#).