



ADMINISTRATIVE
POLICIES AND PROCEDURES MANUAL

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SUBJECT

UNIVERSITY HUMAN RESOURCES POLICIES

SUB-TOPIC
NONDISCRIMINATION

Section I. General Policy Guidelines

A. Policy Statement

It is the policy of The University of Texas at Dallas to provide an educational and working environment that provides equal opportunity to all members of the University community. In accordance with federal and state law, the University prohibits unlawful discrimination, including harassment, on the basis of race, color, religion, national origin, age, disability, citizenship, and veteran status. Pursuant to University policy, this policy also prohibits discrimination on the basis of sexual orientation. Discrimination on the basis of gender, including sexual harassment, is addressed by the University's sexual harassment policy.

B. Scope

This policy applies to visitors, applicants for admission to or employment with the University, and students and employees of the University who allege discrimination by University employees, students, visitors, or contractors.

Complaints of full-time faculty who are notified that they will not be reappointed, or that the subsequent academic year will be their terminal appointment, and who contend that such decisions were made for unlawfully discriminatory reasons will be referred to the Office of the Executive Vice President and Provost for handling pursuant to Part I, Chap. III, Sec. 6.35 of the Rules and Regulations of the Board of Regents of The University of Texas System.

C. Definitions

1. **Discrimination** is defined as conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education because of their race, color, religion, national origin, age, disability, citizenship, veteran status or sexual orientation.
2. **Harassment** as a form of discrimination is defined as verbal or physical conduct that is directed at an individual or group because of race, color, religion, national origin, age, disability, citizenship, veteran status or sexual orientation when such conduct is sufficiently severe, pervasive or persistent so as to have the purpose or effect of interfering with an individual's or group's academic or work performance; or of creating a hostile academic or work environment.
3. **Verbal conduct** is defined as oral, written, or symbolic expressions that:
 - o personally describe or is personally directed at a specific individual or group of identifiable individuals; and
 - o is not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea

Constitutionally protected expression cannot be considered harassment under this policy.



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Section II. General Procedures

A. Reporting

A person who believes that he or she has been subjected to discrimination or harassment in violation of this policy should report the incident to any University official, administrator or supervisor. A faculty member is not an "official, administrator, or supervisor" for this purpose unless that faculty member holds an administrative position. Students are encouraged to report such incidents to the Office of the Dean of Students; employees and campus visitors are encouraged to report to the Office of Human Resources. Incidents should be reported as soon as possible after the time of their occurrence, but no later than 60 days after the event occurred. No person is required to report discrimination or harassment to the alleged offender.

B. Reporting Responsibility

Every supervisor, administrator and University official is responsible for promptly reporting incidents of discrimination and harassment in violation of this policy that come to their attention to either the Office of the Dean of Students or to the Office of Human Resources.

C. Resolution Options

A person who believes that he or she has been subjected to discrimination or harassment in violation of this policy and seeks to take action may use either the informal resolution process or the formal complaint process, or both. The informal resolution and formal complaint process described in this policy are not mutually exclusive and neither is required as a pre-condition for choosing the other; however, they cannot both be used at the same time.

Section III. Informal Resolution Procedure

A. Informal Resolution

Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature and disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process.

A request for informal resolution must be made within 60 calendar days of the date of the alleged incident to either the Office of the Dean of Students or the Office of Human Resources, who shall determine whether the nature of the problem is such that it can be resolved by agreement on an informal basis, and if so, which office will do so. A request for informal resolution will not extend the 60 day time limit for filing a formal complaint.

Methods for informal resolution may include, but are not limited to: coaching the person on how to directly address a situation which is causing a problem; mediating the dispute with the parties; aiding in the modification of a situation in which the offensive conduct occurred; assisting a department or division with the resolution of a real or perceived problem; or arranging a documented meeting with the alleged offender that involves a discussion of the requirements of the Nondiscrimination Policy.



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The University shall document any informal resolution. Such documentation shall be retained by the Dean of Students Office or Human Resources as appropriate and will be kept confidential to the extent permitted by law. An informal resolution meeting shall not be considered a precondition for the filing of a written complaint.

Section IV. Complaint Resolution Procedure

A. Definitions

Complaint. Complaint means a signed document alleging discrimination, including harassment under this policy.

Complainant. Complainant means a person who submits a written complaint alleging discrimination, including harassment under this policy.

Respondent. Respondent means the person designated to respond to a complaint. Generally the respondent would be the person alleged to be responsible for the prohibited discrimination or harassment alleged in a complaint. The term "Respondent" may be used to designate persons with direct responsibility for a particular action or those persons with administrative responsibility for procedures and policies in those areas covered in a complaint.

Notification. Notification takes place two days after the date of posting of any properly addressed document in the United States mail, or upon the date of receipt of any document sent via the campus mail service. Written communications to a complainant are properly addressed when sent to the address given in the complaint or the last address given since the filing of the complaint.

B. Complaint Procedure

1. Complaint. A complaint alleging discrimination or harassment must be submitted in writing to Human Resources or the Office of the Dean of Students. The complaint must contain the following information:

- Name and UT Identification Number of the Complainant(s);
- Contact information, including address, telephone, e-mail;
- Name of person(s) directly responsible for alleged violation(s);
- Date(s) and place(s) of alleged violation(s);
- Nature of alleged violation(s) as defined in this policy;
- Detailed description of the specific conduct that is the basis of alleged violation(s);
- Copies of documents pertaining to the alleged violation(s);
- Names of any witnesses to alleged violation(s);
- Action requested to resolve the situation;
- Complainant's signature and date of filing; and
- Any other relevant information.

The following communications do not constitute a complaint and will not be investigated or resolved pursuant to the complaint resolution process:

- Oral allegations
- E-mail correspondence
- Anonymous communications
- Courtesy copies of correspondence or a complaint filed with others
- Inquiries that seek advice or information only
- Pre-complaint consultations and informal resolution activities.



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2. **Time Limit.** A written complaint must be filed within sixty (60) calendar days of the occurrence of the alleged violation. In the case of a currently enrolled student, if the last day for filing a complaint falls prior to the end of the academic semester in which the alleged violation occurred, then the complaint may be filed within thirty (30) calendar days after the end of that semester.
3. **Acknowledgement.** Within five (5) working days after receipt of a written complaint, Human Resources or the Office of the Dean of Students, as appropriate, will send the complainant a brief acknowledgment of the complaint, stating that the complaint will be evaluated, and advising the complainant(s) that he or she will be contacted within a given time. The acknowledgment letter will include a copy of these complaint procedures.
4. **Complaint Evaluation.** A formal investigation will be initiated if a complaint is complete, timely, within the scope of this policy and articulates sufficient specific facts, which, if determined to be true, would support a finding that this policy was violated. The University may not proceed with a complaint investigation under a variety of circumstances, for instance:
 - a person fails to provide a written, signed complaint;
 - a complaint fails to describe in sufficient detail the conduct that is the basis of the complaint;
 - the conduct described in the complaint is not covered by this policy;
 - a complaint is not timely;
 - the complainant declines to cooperate in The University's investigation;
 - the complaint has been withdrawn; or
 - an appropriate resolution or remedy has already been achieved, or has been offered and rejected.

If it is determined that the University will not proceed with a complaint investigation, Human Resources or the Office of the Dean of Students, as appropriate, will send a notification letter explaining the reason(s) to the complainant, with a copy to the alleged offender. The notification letter will also include a statement informing the complainant that, within ten (10) working days of the notification, he or she may appeal the determination not to proceed with a complaint investigation to the Vice President for Business Affairs or the Vice President for Student Affairs, as appropriate. The request for appeal must be a signed, written document articulating why the decision to dismiss the complaint was in error. The appropriate vice president will respond within twenty (20) working days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision to dismiss is overturned, the complaint is sent back to Human Resources or the Office of the Dean of Students, as appropriate, for investigation in accordance with the procedures outlined below.
5. **Notification of Respondent.** If it is determined that the University will proceed with a complaint investigation, Human Resources or the Office of the Dean of Students will give the respondent written notification of the complaint investigation. The notification letter will include a copy of the written complaint. The notification letter will provide the respondent an opportunity to submit a written response to the allegations within ten (10) working days, unless unusual circumstances warrant additional time.



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The notification letter will include a statement advising the respondent that retaliation against the complainant is prohibited and will subject the respondent to appropriate disciplinary action.

6. **Investigation Responsibility.** The Office of the Dean of Students is responsible for conducting formal investigations of complaints against students alleging discrimination and harassment in violation of this policy. Human Resources is responsible for conducting formal investigations of complaints against non-students alleging discrimination and harassment in violation of this policy. If a complaint is directed against an individual who would otherwise play a role in investigating and attempting to resolve the complaint, the function assigned to that person by these procedures will be delegated to another person.
7. **Investigative Process and Findings.** The investigator will interview both the complainant and the respondent(s) and persons who are considered to have pertinent factual information related to the complaint. The investigator shall also gather and examine documents relevant to the complaint. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual. Findings will be based on the totality of circumstances surrounding the conduct complained of, including but not limited to: the context of that conduct, its severity, frequency, whether it was physically threatening, humiliating, or was simply offensive in nature.
8. **Representation.** During the complaint process, the complainant(s) and the respondent(s) may designate and thereafter be accompanied by an advisor of his or her choosing at meetings and interviews at which he or she is present; however, no representative may examine witnesses or otherwise actively participate in a meeting or interview.
9. **Submission of Evidence.** During the complaint investigation process, the complainant(s) and the respondent(s) will provide Human Resources or the Office of the Dean of Students, as appropriate, with all documents relied upon regarding the issues raised in the complaint.
10. **Report of Findings and Recommendation - Complaints Against Non-Students:**
 - (a) The investigator will provide a proposed statement of findings, copies of relevant documents and any physical evidence considered to the appropriate vice president within thirty (30) working days of receipt of the respondent's statement, unless unusual circumstances require more time. The appropriate vice president to act on complaints against faculty and staff will be the vice president over the area where the respondent is employed. The appropriate vice president to act on complaints against contractors and visitors will be the Vice President for Business Affairs. If a complaint is directed against a vice president who would otherwise act on a complaint, the function assigned to that vice president will be delegated to another person.
 - (b) The appropriate vice president will promptly notify the complainant and the respondent that the investigation has been completed and attach a copy of the proposed statement of findings.



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Student identifiable information, if any, which is confidential by law, will be redacted. Within ten (10) working days from the date of notification, the complainant and respondent may each submit, for consideration by the appropriate vice president, such comments and corrections as they may have.

- (c) Within fifteen (15) working days of the notification to the complainant and the respondent that the investigation has been completed, the appropriate vice president and the investigator shall meet to discuss the findings, and review the record, along with any comments and proposed corrections submitted by the complainant and respondent.
- (d) Within fifteen (15) working days from that meeting, the vice president shall take one of the following actions: a)request further investigation into the complaint; b)dismiss the complaint if the results of the completed investigation are inconclusive or there is insufficient reasonable, credible evidence to support the allegation(s); or c)find that this policy was violated.
- (e) If the vice president determines that this policy was violated, he or she, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine a disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions can include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension without pay, and termination.
- (f) The vice president shall inform the complainant and accused individual, and the appropriate unit head in writing of his or her decision, and shall attach a copy of the final statement of findings. Copies of the vice president's letter, the attached statement of findings, and relevant documents shall also be sent to the Office of the Dean of Students or the Office of Human Resources as appropriate.

11. Report of Findings and Recommendation – Complaints Against Students:

- (a) The investigator will provide a proposed statement of findings, copies of relevant documents and any physical evidence considered to the Dean of Students within thirty (30) working days of receipt of the respondent's statement, unless unusual circumstances require more time.
The Dean of Students and the investigator shall meet within fifteen (15) working days to discuss the findings, and review the record.
- (b) Within fifteen (15) working days from that meeting, the Dean of Students shall take one of the following actions: a)request further investigation into the complaint; b)dismiss the complaint if the results of the completed investigation are inconclusive or there is insufficient reasonable, credible evidence to support the allegation(s); or c)find that this policy was violated.
- (c) If the Dean of Students determines that this policy was violated, the Dean, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine whether to initiate a disciplinary action appropriate to the severity of the conduct pursuant to Chapter 51,



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Student Grievance Procedures of Title V of the UTD Handbook of Operating Procedures.

Disciplinary actions can include, but are not limited to, a documented warning, the imposition of conditions, probation, suspension, and dismissal.

- (d) As required by federal law, any disclosure of the findings and decision of the Office of the Dean of Students will be governed by the provisions of the Family Educational Rights and Privacy Act.

Section V. Miscellaneous

A. Grievance of a Disciplinary Action

1. Any employee disciplined pursuant to this policy, except faculty, graduate research assistants, graduate teaching assistants, or members of the University of Texas at Dallas Police Department (each of whom are subject to separate grievance procedures), may grieve that action by submitting a written grievance, within ten (10) working days of the imposition of the disciplinary action, to the president's office. Ordinarily, the president will assign responsibility for review and action on the appeal of the vice president's action to another vice president; however, when required by unusual circumstances, the president may review and handle a grievance pursuant to this policy.
2. If the disciplinary action that is being grieved does not involve termination, demotion, or suspension without pay, the vice president shall thoroughly review and finally decide the matter within thirty (30) calendar days of its receipt unless unusual circumstances require more time.
3. If the disciplinary action that is being grieved involves the termination, demotion or suspension without pay of a faculty member with the rank of Regental Professor, Professor, Associate Professor, Assistant Professor, or Instructor, the vice president who is assigned to review the grievance shall follow the procedures for appealing such actions contained in the UTD Faculty Grievance Procedure, Policy Memorandum 92-III.21-54. Complainants will be required to appear and testify at hearings that may be a part of such proceedings.
4. Any student disciplined under this policy has the right to appeal as provided in Section 49.30 of the UTD Handbook of Operating Procedures. The student must give written notice of appeal to the President within fourteen (14) calendar days after all parties are notified of the decision.

B. Retaliation Prohibited

A student, faculty, or staff member who retaliates in any way against an individual who has brought a complaint pursuant to this policy or participated in good faith in an investigation of such a complaint, is subject to disciplinary action, up to and including dismissal from the University.

C. Filing of False Complaints

Any person who knowingly and intentionally files a false complaint under this policy is subject to disciplinary action up to and including dismissal from the University.



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D. Effect on Pending Personnel Actions

The filing of a nondiscrimination or retaliation complaint will not stop or delay any evaluation or disciplinary action related to the complainant who is not performing up to acceptable standards or who has violated University rules or policies.

E. Relationship of Complaint Process to Outside Agency Time Limits.

The filing of a discrimination or harassment complaint under this policy does not excuse the complainant from meeting the time limits of outside agencies.

F. Relationship to Grievance Procedure

This complaint procedure shall also constitute the grievance procedure for complaints alleging unlawful discrimination. As used herein, "complaint" is synonymous with "grievance."

G. Time Frames

Time frames mentioned in these procedures may be extended for good cause, such as holidays or when classes are not in session, or when it is necessary to complete an investigation due to difficulties reaching witnesses or parties to the complaint.

H. Documentation and Confidentiality

The University shall maintain documents related to complaints under this policy as required by law. The Office of the Dean of Students shall be primarily responsible for records related to complaints against students. The Office of Human Resources shall be primarily responsible for records related to complaints against non-students. The confidentiality of a complaint under this policy and all documents, correspondence, interviews and discussions relating to the investigation of the information contained in a complaint will be maintained on a need to know basis to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise relating to the investigation of a complaint under this policy is subject to disciplinary action.

For Assistance: Questions regarding this policy should be directed to the Office of the Dean of Students or Human Resources.

Sources: Titles VI and VII of the Civil Rights Act of 1964, as amended; Age Discrimination in Employment Act of 1967, as amended; Age Discrimination Act of 1975; Americans with Disabilities Act of 1990; Equal Pay Act of 1963; Veterans Readjustment Act of 1974; Executive Order of 11246; Sections 503 and 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; Texas Labor Code, Chapter 21; BOR 2.I.6