EDU-116 Sex Discrimination – Sexual Misconduct, Harassment, and Violence

Chapter 10: Students, Postdoctoral Scholars, Residents, and Fellows

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Administrative Information
Responsible Office: Dean’s Office
Executive Sponsor: Provost
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Contact: policyoffice@utsouthwestern.edu

Policy Rationale and Text
UT Southwestern is committed to ensuring that its working, educational, and training environments are free from discrimination based on sex. In accordance with Title IX of the Higher Education Amendments of 1972, the Campus Sexual Violence Elimination Act, and other federal and state laws, sex discrimination is strictly prohibited at UT Southwestern. Sexual misconduct is a form of prohibited sex discrimination that includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence, and dating violence. Retaliation against an individual who opposes a discriminatory practice, files an informal or formal complaint of sex discrimination, or testifies for, assists in, or participates in an investigation or other proceeding relating to sex discrimination is also strictly prohibited. Individuals who engage in conduct prohibited by this policy will be subject to disciplinary action, up to and including dismissal or non-renewal of appointment.

Scope
This policy applies to students, residents, and applicants to any UT Southwestern school or training program. All informal and formal complaints about sex discrimination brought by students, residents, or applicants will be handled in accordance with EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure.

This policy also applies to all full-time, part-time, and temporary employees; individuals holding a faculty appointment; applicants for employment; and any individual participating in UT Southwestern services, programs, or activities, including but not limited to patients, visitors, volunteers, contractors, and vendors. However, all complaints about sex discrimination or sexual misconduct brought by individuals other than students, residents, or applicants to any UT Southwestern school or training program will be referred to the Office of Diversity & Inclusion and Equal Opportunity in accordance with the applicable UT Southwestern policy and procedure (see ETH-151 Equal Opportunity, ETH-154 Sexual Harassment and Sexual Misconduct, and ETH-151P-01 Equal Opportunity Complaint, Investigation, and Resolution Procedure).
This policy applies regardless of the gender, gender identity, or sexual orientation of either the complainant or the respondent. It applies to conduct that occurs on and off UT Southwestern premises, and via telephonic or electronic means (e.g., text message, e-mail, social media, or instant messaging), if such conduct may have an adverse effect on the complainant’s education or participation in UT Southwestern programs or activities.

**PROCEDURES (INCLUDING LINKS TO RELATED DOCUMENTS)**

**Reporting Sex Discrimination to UT Southwestern**

1. Anyone who witnesses or is aware of any known or suspected incidents of sex discrimination is strongly encouraged to promptly report the incident to UT Southwestern. Incidents involving a student, resident, or applicant should be reported to the Title IX Coordinator or a Deputy Title IX Coordinator. Incidents involving individuals other than a student, resident, or applicant should be reported to the Office of Diversity & Inclusion and Equal Opportunity, Division of Equal Opportunity (see ETH-151 Equal Opportunity and ETH-154 Sexual Harassment and Sexual Misconduct).
2. Reports may also be made to a Responsible Employee, to the Office of Compliance, or to the Compliance Hotline. All Responsible Employees, as defined in this policy, must promptly report incidents of known or suspected sex discrimination involving a student, resident, or applicant to the Title IX Coordinator or a Deputy Title IX Coordinator.
3. Any student, resident, or applicant with questions or concerns about sex discrimination is strongly encouraged to seek assistance from the Title IX Coordinator or a Deputy Title IX Coordinator. Any student, resident, or applicant who believes that he or she has been subjected to conduct prohibited by this policy is urged to immediately submit a request to invoke the informal resolution process or submit a formal complaint to the Title IX Coordinator or a Deputy Title IX Coordinator in accordance with EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure.
4. The Title IX Coordinator or a Deputy Title IX Coordinator, the University Police, and/or the Office of Diversity & Inclusion and Equal Opportunity shall immediately ensure that the President is made aware of any reports of alleged sexual misconduct prohibited by this policy, including sexual harassment, sexual violence, sexual assault, stalking, domestic violence, or dating violence.

**Reporting Sexual Violence to Law Enforcement**

1. Incidents of sexual violence (including domestic violence, dating violence, sexual assault, and stalking) that occurred on campus should be immediately reported to University Police at 214-648-8911 (emergency), 214-648-8311 (non-emergency), or via the online Report a Crime form.
2. Incidents of sexual violence occurring in other jurisdictions should be reported to the appropriate local law enforcement authority.
3. Individuals who witness or experience sexual violence are strongly encouraged to promptly report the incident to the appropriate law enforcement authority, regardless of whether the victim intends to pursue criminal charges.
4. Reporting sexual violence to law enforcement does not mean that the case will automatically go to criminal trial or to a UT Southwestern disciplinary proceeding. If a complaint of sexual violence is reported to University Police, the department will advise the complainant of his or her right to also submit a request to invoke the informal resolution process or submit a formal complaint to the Title IX Coordinator or a Deputy Title IX Coordinator in accordance with EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure.
5. To the extent permitted by law and UT Southwestern policy, University Police will also notify the Title IX Coordinator when a sexual violence complaint involving a student, resident, or applicant is received and will provide the Title IX Coordinator access to related law enforcement records, so long as such access will not compromise any criminal investigation.

**Additional Procedures for Victims of Sexual Violence**
1. Any victim who experiences any form of sexual assault is encouraged to seek immediate medical care. It is important to preserve all physical evidence and to get a medical exam, regardless of whether the victim intends to report a crime, notify the police, or press criminal charges.

2. Individuals who have experienced a sexual assault are encouraged to have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) as soon as possible but no later than four (4) days after the incident. With the victim’s consent, evidence collected during a SAFE can be used in a criminal investigation; however, a victim can undergo a SAFE even without contacting or intending to contact law enforcement. To undergo a SAFE, the individual should go directly to the emergency department of the nearest hospital that provides SAFE services. There are three hospitals in the city of Dallas equipped to offer SAFE services:
   - Parkland Hospital
   - THR Presbyterian Hospital of Dallas
   - Methodist Dallas

   The cost of the forensic portion of the SAFE is covered by the law enforcement agency investigating the assault or, in cases where a report is not made to police, the Texas Department of Public Safety. This does not include the cost of medical treatment that is not part of the SAFE. More information may be found at: https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors.

3. An individual who has experienced a sexual assault but who does not plan to undergo a SAFE or report to police is strongly encouraged to seek medical attention and counseling. Counseling is available for students through Student Wellness and Counseling and for residents by contacting the Office of Graduate Medical Education.

4. For additional information and resources for individuals affected by sexual violence, please refer to SEC-156 Violence on Campus or contact the Title IX Coordinator, a Deputy Title IX Coordinator, the Office of Diversity & Inclusion and Equal Opportunity, or one of the other resources listed below.

Complaints
1. All informal and formal complaints about sex discrimination involving students, residents, or applicants to any UT Southwestern school or training program will be handled in accordance with EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure. If a final determination is made under EDU-116P-01 that this policy was violated, the individual who committed the violation will be subject to disciplinary action and sanctions, up to and including termination or non-renewal of appointment, in accordance with the applicable disciplinary policy.

2. Complaints of retaliation directed at students, residents, or applicants should be brought to the Title IX Coordinator or a Deputy Title IX Coordinator and will be handled in accordance with EDU-116P-01 Sex Discrimination Complaint and Resolution Procedure.

3. Complaints about sex discrimination (including retaliation) brought by individuals other than students, residents, or applicants will be referred to the Office of Diversity & Inclusion and Equal Opportunity in accordance with the applicable UT Southwestern policy and procedure (see ETH-151 Equal Opportunity, ETH-154 Sexual Harassment and Sexual Misconduct, and ETH-151P-01 Equal Opportunity Complaint, Investigation, and Resolution Procedure).

Interim Measures and Ongoing Assistance
1. UT Southwestern’s Title IX Coordinator and Deputy Coordinators are specially trained to provide education and support to individuals affected by sex discrimination, including assisting victims of sexual violence with obtaining medical or
psychological treatment, reporting the incident to law enforcement, pursuing a formal complaint, and accessing support services and resources.

2. In addition to the resources and assistance available both on and off campus, UT Southwestern will take immediate interim measures, as appropriate, to ensure the safety and well-being of the complainant and the UT Southwestern community and to maintain an environment free from sex discrimination. For example, if the respondent is an employee accused of sexual misconduct against a student, interim measures may include suspension or reassignment of the employee while the investigation is pending. If the respondent is a student accused of sexual misconduct against another student, interim measures may include changing the complainant’s academic, living, transportation, and working situations; providing temporary or permanent on-campus housing or personal campus police escort services; or making changes to course schedules or clinical assignments.

3. The Title IX Coordinator and Deputy Coordinators have wide discretion to determine whether interim measures are needed, and if so, to decide what interim measures are appropriate. Interim measures will be kept as confidential as possible. Information about interim measures will only be shared on a need-to-know basis for legitimate purposes, e.g., implementing such measures and monitoring their effectiveness.

Ongoing Awareness and Training
This policy will be made available to all members of the UT Southwestern community online and also through any of the campus resources listed below. Periodic notices will be sent to UT Southwestern administrators, faculty, staff, and students about this policy, including information about sexual misconduct, the complaint procedure, and applicable disciplinary policies and available resources, such as support, health, and mental health services.

UT Southwestern’s commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual campus-wide training regarding this policy and conduct that could constitute a violation of this policy, risk reduction, and strategies for appropriate bystander intervention. Preventive education and training are also available by contacting University Police or the Office of Diversity & Inclusion and Equal Opportunity. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct investigations and proceedings shall receive appropriate training about offenses, investigatory procedures, due process, and applicable UT Southwestern policies, procedures, and resources.

RESPONSIBILITIES
The Title IX Coordinator and Deputy Title IX Coordinators facilitate and oversee compliance with this policy; ensure that the working, educational, and training environments at UT Southwestern are free from sex discrimination; inform members of UT Southwestern about their rights and obligations under this policy; notify complainants of their right to bring a criminal complaint in addition to any request to invoke the informal resolution process or bring a formal complaint; receive and investigate complaints brought under this policy in the manner set forth in EDU-116P-01; help individuals who have experienced sex discrimination to access campus resources and identify options for bringing a complaint; and provide information and discuss concerns about sex discrimination. Any member of the UT Southwestern community may contact the Title IX Coordinator or a Deputy Title IX Coordinator with questions.

The Office of Diversity & Inclusion and Equal Opportunity refers students, residents, and applicants with concerns or complaints about sex discrimination to the Title IX Coordinator or a Deputy Title IX Coordinator; works with the Title IX Coordinator, Deputy Title IX Coordinators, and law enforcement, as appropriate, to ensure that the working, educational, and training environments at UT Southwestern are free from sex discrimination; handles complaints about sex discrimination made by individuals other
than students, residents, and applicants in accordance with ETH-151 Equal Opportunity, ETH-154 Sexual Harassment and Sexual Misconduct, and ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure.

The University Police department notifies complainants of their right to submit a request for informal resolution or a formal complaint pursuant to EDU-116P-01, in addition to a criminal complaint; shares information with the Title IX Coordinator, Deputy Title IX Coordinators, and the Office of Diversity & Inclusion and Equal Opportunity, as appropriate; and provides crime prevention and security awareness resources, including sexual assault prevention and campus and personal safety.

Student Wellness and Counseling provides educational materials, counseling, and support to students who believe they have been subjected to sex discrimination or who have experienced sexual violence and advises complainants of their options under this policy and outside UT Southwestern, such as reporting to the police.

**DEFINITIONS**

**Consent** – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent. Consent is not effective if it results from: (a) the use of physical force; (b) a threat of physical force; (c) intimidation; (d) coercion; (e) incapacitation; or (f) any other factor that would eliminate an individual’s ability to exercise his or her own free will to choose whether or not to have sexual activity. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

**Dating Violence** – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim with consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include domestic violence.

**Domestic (Family) Violence** – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the state of Texas.

**Hostile Environment** – sex-based harassment that is sufficiently severe or pervasive to deny educational opportunities or limit an individual’s ability to participate in UT Southwestern programs or activities. A hostile environment can be created by anyone involved in a UT Southwestern program or activity (e.g., administrators, faculty members, employees, students, vendors, patients, and visitors).

In determining whether a hostile environment exists, UT Southwestern considers the conduct in question from both a subjective and objective perspective. To conclude that conduct created or contributed to a hostile environment, the conduct must be unwelcome to the complainant and a reasonable person in the individual’s position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists, UT Southwestern considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of
the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual’s education. A single instance, if sufficiently severe, may be sufficient to create a hostile environment (e.g., sexual assault). Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

**Resident** – for the purposes of this policy, any physician in any Graduate Medical Education program at UT Southwestern, including interns, residents, fellows, and subspecialty residents.

**Responsible Employees** – UT Southwestern employees who must report known or suspected incidents of sexual misconduct involving students, residents or applicants to the Title IX Coordinator or Deputy Coordinators, including officials, administrators, faculty, supervisors, mentors, and academic advisors. Responsible Employees do not include individuals who are prohibited by confidentiality laws from reporting or identifying a victim without consent, including physical or mental health care professionals (Student Wellness and Counseling or other physician or counselor), pastoral or religious counselors, rape crisis centers, etc.

**Retaliation** – any action adversely impacting the educational or institutional status of an individual, or in any other manner harassing or discriminating against an individual, because he or she opposed sex discrimination; filed a complaint of sex discrimination; or testified for, assisted with, or participated in an investigation or other proceeding relating to sex discrimination.

**Sexual Assault** – a form of sexual violence that includes any offense that meets the definition of rape, fondling, incest, or statutory rape:

1. **Rape:** the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
2. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental incapacity.
3. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

**Sexual Harassment** – unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when (1) submission to such conduct is made either explicitly or implicitly a term or condition of a person’s education or participation in UT Southwestern activities; (2) such conduct is sufficiently severe or pervasive that it interferes with an individual’s education or participation in UT Southwestern activities, or creates an objectively hostile environment; or (3) such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual’s education or participation in UT Southwestern activities, or creating a hostile environment. Sexual harassment is a form of prohibited sex discrimination that includes:

1. Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
   a. unwelcome intentional touching; or
   b. deliberate physical interference with or restriction of movement;
2. Verbal conduct including but not limited to:
a. explicit or implicit propositions to engage in sexual activity;

b. gratuitous comments, jokes, questions, anecdotes, or remarks of a sexual nature about clothing or bodies;

c. gratuitous remarks about sexual activities or speculation about sexual experiences;

d. persistent, unwanted sexual or romantic attention;

e. subtle or overt pressure for sexual favors;

3. Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or deliberate, repeated humiliation or intimidation based upon sex.

**Sexual Misconduct** – a broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual harassment, sexual violence, sexual assault, sexual exploitation, sexual intimidation, domestic violence, dating violence, and stalking. The term also includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature that does not rise to the level of sexual harassment but is unprofessional and inappropriate for the education and training environment. Sexual misconduct is a form of prohibited sex discrimination. Sexual misconduct can be committed by men or women, strangers or acquaintances. Sexual misconduct can occur between or among people of the same or opposite sex, and even between or among consenting individuals if conduct is of a sexual nature and is unprofessional or inappropriate for the education and training environment.

**Sexual Violence** – physical sexual acts perpetrated against a person’s will or where a person is incapacitated or otherwise incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

**Stalking** – engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:

1. *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

2. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

3. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Student** – for the purposes of this policy, an individual who is enrolled and in attendance at the UT Southwestern Medical School, School of Health Professions, or Graduate School of Biomedical Sciences, including postdoctoral scholars appointed to academic training positions.

**UT Southwestern Premises** – any area owned, operated, leased, occupied, or controlled by UT Southwestern, including buildings and structures, grounds, parking structures, enclosed bridges and walkways, sidewalks, parking lots, and UT Southwestern owned or leased vehicles.

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**PREVIOUS HANDBOOK POLICY CHAPTER AND NUMBER**

Not applicable.
**RELATED STATUTES, OTHER POLICIES, REQUIREMENTS, OR STANDARDS**

- Title VII of the Civil Rights Act of 1972, and its implementing regulations, 29 C.F.R. §1604
- Clery Act, 20 U.S. C. 1092(f) and its implementing regulations, 34 C.F.R. Part 668
- ETH-151 Equal Opportunity
- ETH-151P-01 Equal Opportunity Complaint Investigation and Resolution Procedure
- ETH-154 Sexual Harassment and Sexual Misconduct
- EDU-116P-01 Sex Discrimination Complaint and Resolution
- SEC-156 Violence on Campus
- Texas Labor Code Chapter 21
- Texas Family Code, Sections 71.0021, 71.004
- Texas Family Code Section 71.004
- Texas Penal Code, Section 42.072
- Regents' Rule 30105 Sexual Harassment, Sexual Misconduct, Consensual Sexual Relationships

**REVIZITIONS AND UPDATES**

June 23, 2016: Removed link to Hopelaws.org from the Additional Procedures section and replaced Hopelaws in Off-Campus Resources with LASSA (Legal Aid for Survivors of Sexual Assault).

June 9, 2016: Added requirement for Title IX Coordinator, University Police, and Office of Diversity & Inclusion and Equal Opportunity to inform the President of any reported incidents of sex discrimination as defined in this policy.

July 3, 2015: Revised policy to comply with current laws and models provided by the UT System Office of General Counsel.

**CONTACTS AND RESOURCES**

**Campus Resources**

**Title IX Coordinator or Deputy Title IX Coordinator**

The Title IX Coordinators have specialized training and are knowledgeable about sexual violence, including domestic violence, dating violence, sexual assault, and stalking. They can assist individuals affected by sexual violence with accessing campus and community resources and pursuing a complaint.

**The Office of Diversity & Inclusion and Equal Opportunity** 214-648-4343

**University Police**

- On-Campus Emergency Number: 911
- Off-Campus Emergency/Cell Number: 214-648-8911
- On-Campus Non-Emergency Number: 88311
- Off-Campus Non-Emergency Number: 214-648-8311
- Crime Prevention Unit: 214-648-2220
- "Report a Crime" via the University Police Crime Prevention web page
• University Police Annual Security Report

• UT Southwestern Emergency Response Guide

Office of Compliance 214-648-6024

Compliance Hotline 877-507-7319
The Compliance Hotline is a confidential third-party reporting service that operates 24 hours a day, 7 days a week, and 365 days a year. Calls can be made anonymously or individuals may leave their name. Allegations are forwarded to UT Southwestern and will be promptly investigated.

Additional Campus Resources
• Office of Student and Alumni Affairs: 214-648-5617
• Student Wellness and Counseling Services: 214-645-8690
• Student Health Services: 214-645-8690
• Southwestern Medical School – Office of the Associate Dean for Student Affairs: 214-648-2168
• Southwestern Graduate School – Office of the Dean: 214-648-0715
• School of Health Professions – Office of the Dean: 214-648-1500
• Office of Graduate Medical Education: 214-648-3433

Off-Campus Resources
• Parkland Victim Intervention Program (VIP)/ Rape Crisis Center 24-hour Local Hotline: 214-590-0430
• Dallas Area Rape Crisis Center 24-Hour Local Hotline: 972-641-RAPE (7273)
  http://www.dallasrapecrisis.org/who-we-are/
• Rape, Abuse & Incest National Network (RAINN): 1-800-656-HOPE
  https://www.rainn.org/get-help/national-sexual-assault-hotline
• Legal Aid for Survivors of Sexual Assault (LASSA): 1-844-303-7233
  http://www.tlsc.org/programs/lassa.asp