



TEXAS SOUTHERN UNIVERSITY
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Human Resources
AREA: Employee Relations

Policy 02.05.09

SUBJECT: Title IX Grievance Procedure
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I. PURPOSE AND SCOPE

It is the policy of Texas Southern University not to discriminate on the basis of sex in its educational programs and activities as required by Title IX of the Education Amendments of 1972. Title IX provides that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Sex discrimination includes sexual harassment and sexual assault. This policy shall apply to all students, staff, faculty, contractors, vendors, and/or visitors to Texas Southern University.

As a student of the University you are protected from sex discrimination in areas including, but not limited to:

- Admission to schools/colleges
- Access to enrollment in courses
- Access to and use of school facilities
- Counseling and guidance materials, tests and practices
- Vocational education
- Physical education
- Competitive athletics
- Graduation requirements
- Student rules, regulations and benefits
- Treatment as a married and/or pregnant student
- Housing
- Financial assistance
- Health services
- School-sponsored extracurricular activities

As an employee of the University you are protected from sex discrimination in areas including, but not limited to:

- Employment, evaluation, wages, advancement, assigned duties and shifts

- Career advancement
- Other terms and conditions of employment

II. DEFINITIONS

A. **Sex Discrimination.** Sex discrimination can occur when conduct is directed at a specific individual or a group of identifiable individuals that adversely affects the education or employment of the individual or group because of sex. Behavior that may be sex discrimination include, but are not limited to:

- Exclusion from educational resources or activities because of one's gender
- Subjection to jokes or derogatory comments about one's gender; or
- Being held to different standards or requirements on the basis of one's gender

B. **Sexual Harassment.** Sexual harassment is a form of sex discrimination that can occur when there are:

- Unwelcome sexual advances;
- Request for sexual favors, whether or not accompanied by promises or threats relating to the employment or academic relationship, or that in any way influence any academic or personnel decision regarding a person's academic standing, employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment, career or academic development;
- Any verbal or physical conduct of a sexual nature that threatens or implies, either explicitly or implicitly, that an employee's or student's submission to or rejection of sexual advances will in any way influence any personnel or academic decision regarding his or her academic standing, employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment, career or academic development;
- Any verbal or physical conduct that has the purpose or effect of substantially interfering with an employee's ability to do his or her job or a student's academic standing, performance or development;
- Any verbal or physical conduct that has the purpose or effect of creating an intimidating, hostile or offensive working or educational environment; and
- Certain conduct in the workplace or educational environment, whether physical or verbal, committed by supervisors, non-supervisory personnel, or faculty, including but not limited to references to an individual's body; use of sexually degrading words to describe an individual; offensive comments; off-color language or jokes; innuendoes; and sexually suggestive objects or behavior, books, magazines, photographs, cartoons or pictures.

- C. **Sexual Assault.** Sexual assault is a non-consensual act involving psychological manipulation, physical force, or coercion. As defined by the Texas Penal Code, a stranger or acquaintance commits sexual assault through forcible sodomy, forcible sexual penetration, however slight, of another person's mouth, anal or genital opening with any object. These acts must be committed without the victim's consent either by force, threat of force or violence, intimidation or through the use of the victim's mental or physical helplessness of which the accused was aware or should have been aware.

III. REPORTING COMPLAINTS

- A. Texas Southern University (TSU) encourages any student, employee or visitor who thinks that she or he has been subjected to sex discrimination, sexual harassment or sexual assault by another student, member of the faculty or staff, campus visitor or contractor, to report that action immediately to the University's Title IX Coordinator or a Deputy Coordinator.
- B. Any complaint of sex discrimination, sexual harassment or sexual assault made under this procedure must be submitted in writing within 180 days after the occurrence (or the last of a series of occurrences) of the alleged discrimination.
- C. All TSU employees are responsible for promptly reporting incidents of sex discrimination, sex harassment and sexual assault that come to their attention to the University's Title IX Coordinator or a Deputy Coordinator (unless the employee is statutorily barred from sharing such information). All other individuals (e.g. students, visitors) are urged to report to their supervisors or the University's Title IX Coordinator/Deputy Coordinators conduct that they believe violate the University policies prohibiting sex discrimination.

IV. NOTICE OF TITLE IX COORDINATOR/DEPUTY COORDINATORS

While compliance with the law is everyone's responsibility at the University, listed below are the University's Deputy Coordinators who have primary responsibility for Title IX Compliance.

1. Title IX Coordinator - TBA

Duties and responsibilities of the Title IX Coordinator include monitoring and oversight of overall implementation of Title IX compliance at the University, including, but not limited to coordination of training, education, communications, and administration of grievance procedures for faculty, staff, students and other members of the University community.

2. Interim Title IX Deputy Coordinator**Toni Gray**

Senior Employee Relations Specialist
Office of Human Resources
Hannah Hall, Room 126
Texas Southern University
Houston, TX 77004
(713) 313-7881
Toni.Gray@tsu.edu

For Sexual Assault:

To file a complaint of sexual assault, you may contact the office listed above, and you may also contact:

TSU Department of Public Safety

Texas Southern University
3443 Blodgett Street
(713) 313-7000 (Emergency)
(713) 313-7001 (Non-emergency)

U. S. Department of Education, Office for Civil Rights

You may also file a complaint of illegal discrimination with the Dallas regional office of the U. S. Department of Education's Office for Civil Rights (OCR). Contact information for OCR is:
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
(214) 661-9600
OCR.Dallas@ed.gov

Confidentiality

Discrimination and harassment complaints will be handled in a confidential manner to the extent possible and consistent with principles of due process. Information will only be shared on a need-to-know basis and as provided for by University policy and applicable federal and state laws.

V. INFORMAL RESOLUTION PROCEDURES

Though not required, employees and students are encouraged to attempt initially to resolve complaints at the lowest level through the administrative structure of the employment unit or academic department.

- A. If you would like to proceed informally, you should ask your supervisor, the other person's supervisor, the Title IX Coordinator or a Deputy Title IX Coordinator to

intervene. Do not rely upon other co-workers or individuals who are not familiar with University policy to intervene on your behalf when discussing your concerns with the person whose behavior is unwelcome and/or offensive. In cases involving allegations of sexual assault, mediation is not appropriate, even on a voluntary basis.

- B. You have the right to end the informal resolution process at any time and begin the formal resolution process.
- C. Supervisors or administrators, including faculty, always should contact the Title IX Coordinator or a Deputy Coordinator before attempting to resolve any complaints.

VI. FORMAL RESOLUTION PROCEDURES

You may initiate formal complaint procedures by filing a complaint with the University's Title IX Coordinator or a Deputy Coordinator ("Coordinator") whether or not you have attempted resolution through informal procedures. The individual who files the complaint is referred to as the "Complainant". The individual against whom the complaint is filed is referred to as the "Respondent". Collectively these individuals are referred to as the "parties". The University will work to investigate all complaints as quickly and professionally as possible. When investigations confirm the discrimination and/or harassment allegations, appropriate corrective action will be taken to prevent the recurrence of any discrimination or harassment.

A. Filing of a Complaint.

1. The complaint must be submitted in writing, must be filed within one hundred eighty (180) days of the incident (or last of a series of incidents) that is the basis of the complaint, and must contain the following information:
 - a. Complainant's name and contact information, including address, telephone number and e-mail address;
 - b. Name of Complainant's Department Head/Dean/Vice President (if Complainant is an employee);
 - c. Name of person(s) responsible for alleged violation(s);
 - d. Date(s) and place(s) of alleged violation(s);
 - e. Nature of alleged violation(s) as defined in this policy;
 - f. Detailed description of the specific conduct that is the basis of alleged violation(s);
 - g. Names of any witnesses to alleged violation(s);
 - h. Action requested to resolve the situation;
 - i. Complainant's signature and date of filing; and
 - j. Any other relevant information/documents
2. The following communications do not constitute a complaint and will not be investigated or resolved pursuant to this complaint resolution process:

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

Notwithstanding the foregoing, the University will, pursuant to its obligations under Title IX, respond to all incidents of possible sex discrimination, harassment and sexual assault, of which it knows or reasonably should know.

B. Receipt of a Complaint.

1. Upon receipt of the written complaint, the Coordinator will meet with the Complainant within five (5) working days to review the complaint procedures, discuss the Complainant's allegations, and determine, if appropriate, whether the Complainant is amenable to resolving the complaint through informal procedures. If the Complainant is willing to first proceed informally, the Coordinator will temporarily postpone the complaint investigation and contact the Respondent to determine whether he or she is willing to participate in an informal resolution.
2. If the Complainant wishes to proceed directly with the formal complaint procedures, or the Respondent declines to participate in an informal resolution, or attempts to resolve the complaint through informal procedures are unsuccessful, the Coordinator will assess the Complainant's written complaint to determine whether the allegations state a potential violation of federal or state laws and/or University policies.

C. Acceptance of a Complaint.

1. Within five (5) working days of: 1) the Coordinator's receipt of the complaint; 2) the Coordinator's initial meeting with the Complainant; or 3) the Coordinator's determination that an informal resolution of the Complainant's complaint is no longer feasible – whichever is later, the Coordinator shall decide whether the written complaint states a potential violation of University policies or federal or state laws and shall notify the Complainant in writing of her/his determination.
2. If the Coordinator determines that the allegations of the complaint state a potential violation, the Coordinator will notify the Complainant that the complaint has been accepted and within ten (10) days thereafter provide written notice to the Respondent of the complaint allegations. In addition to notice of the complaint

being provided to the Respondent, the Coordinator shall provide notice to the Respondent's immediate supervisor and divisional vice president.

3. If the Coordinator determines that the allegations of the complaint do not state a violation of University policy or federal or state laws, the Coordinator will provide written notice of this decision to the Complainant. The notice shall explain why the complaint does not state a violation.

D. Complaint Investigation.

1. The allegations in all complaints will be investigated thoroughly to assure a resolution that is consistent with the facts. The investigation may include, but is not limited to:
 - Interviewing the Complainant
 - Interviewing the Respondent
 - Interviewing witnesses and reviewing evidence presented by the parties
 - Interviewing other material witnesses
 - Reviewing relevant files and records;
 - Comparing the treatment of the Complainant to that of others similarly situated in the department or unit; and/or
 - Reviewing applicable policies and procedures
2. All interviews will be audio recorded. Parties and witnesses will be informed that their statements will remain confidential only to the extent allowed by laws.
3. Evidence will be reviewed using a preponderance of the evidence standard (e.g. is it more likely than not that a violation of University policy occurred).

E. Abandonment of Complaint.

1. The following acts may constitute abandonment of a complaint:
 - Failing to respond or take an action required by the policy or procedure within the specified time limit;
 - Failing to appear for a scheduled meeting/hearing without adequate cause; or
 - Otherwise failing to advance the complaint in a timely manner.
2. No further action or appeal will be allowed following a Coordinator's determination that the Complainant has abandoned their complaint. The Coordinator will provide written notice to the Complainant of this determination.
3. Notwithstanding the foregoing, the University will, pursuant to its obligations under Title IX, respond to all incidents of possible sex discrimination, harassment and sexual assault, of which it knows or reasonably should know.

F. Report of Findings and Recommendation – Complaints Against Non-students.

1. The investigation shall normally be concluded within sixty (60) working days of the filing of the written complaint, at which time the Coordinator shall issue a written report to the Respondent's supervisor/department head. If a complaint is directed against a supervisor/department head who would otherwise act on a complaint, the function assigned to that supervisor/department head will be delegated to the next level supervisor in the Respondent's line of supervision. The report shall include a summary of the Complainant's allegations, the Respondent's response to the allegations, findings of fact and conclusions, as well as appropriate recommendations.
2. If the report determines a finding of a violation of University policy and/or federal or state law, within five (5) working days following receipt of the report of findings and recommendation, the supervisor/department head shall determine a disciplinary action that is appropriate for the severity of the conduct. Disciplinary action which may include sexual harassment, non-retaliation and/or managerial training, a letter of reprimand, a formal letter of apology to the Complainant, a reduction in administrative duties (e.g. removal as chair of department), unpaid suspension and/or termination of employment, will be taken in accordance with applicable University policies and procedures. Disciplinary action must be approved by the Office of Human Resources prior to the action being taken.
3. The supervisor/department head shall communicate the discipline decision in writing to the Coordinator and the Coordinator shall provide written notice to the parties of the outcome of the investigation.

G. Report of Findings and Recommendation – Complaints Against Students.

1. The investigation shall normally be concluded within sixty (60) days of the filing of the written complaint, at which time the Coordinator shall issue a written report. The report shall include a summary of the Complainant's allegations, the Respondent's response to the allegations, findings of fact and conclusions, as well as appropriate recommendations.
2. Any disciplinary proceedings involving a student will be conducted pursuant to the provisions of the University's Student Conduct Code. Disciplinary sanctions under the Code may include sexual harassment and non-retaliation counseling, disciplinary reprimand, disciplinary probation, suspension and expulsion.
3. The University will take necessary steps to prevent the recurrence of any discrimination found to exist.

4. The Coordinator shall provide written notice to the parties of the outcome of the investigation.
5. In all Student Conduct Code disciplinary proceedings initiated pursuant to this Policy the Complainant will be provided with the same procedural protections provided to the Respondent, including but not limited to the right to:
 - a. receive notice of the hearing;
 - b. select and be accompanied and assisted by an advisor;
 - c. attend a pre-hearing disciplinary conference;
 - d. present witnesses and evidence in support of her/his position;
 - e. appeal the determination of the hearing panel;
 - f. notice of the outcome of the complaint and any appeal

Further, the Complainant and Respondent will not be allowed to personally question or cross-examine each other during disciplinary hearings/proceedings. Finally, all evidence will be reviewed using a preponderance of the evidence standard (e.g. is it more likely than not that a violation of the Student Conduct Code occurred).

6. As required by Federal law, any disclosure of the findings and decision in regards to student disciplinary proceedings will be governed by the provisions of the Family Educational Rights and Privacy Act.

H. Protective Measures.

At times the Title IX Coordinator/Deputy Coordinator may deem it necessary to recommend steps before or during an investigation to protect the rights and interests of the Complainant and/or the Respondent. Those measures may be designed to reduce or eliminate contact between the Complainant and Respondent so that both parties feel safe in their work or educational environment. Protective measures may also guard against further actual or perceived discrimination or retaliation.

Protective measures may include but are not limited to temporary changes in working conditions (such as changes in supervisor, shift, job site, or office location), changes in class schedule, changes in living arrangements, directives to the Complainant and Respondent to avoid personal contact or refrain from such contact without a third party neutral person present, and in severe cases interim suspension.

I. Effect of Criminal Proceedings.

Because sexual assault may constitute both a violation of University policy and criminal activity, the University encourages students to report alleged sexual assaults promptly to University and/or local law enforcement agencies. Criminal

investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are not determinative of whether sexual assault, for purposes of this Policy, has occurred. In other words, conduct may constitute sexual assault under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute.

The filing of a complaint of sexual assault under this Policy is independent of any criminal investigation or proceeding, and (except that the University's investigation may be delayed temporarily while the criminal investigators are gathering evidence) the University will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation and take interim measures to protect the Complainant and the University Community, if necessary.

J. Retaliation Prohibited.

It is contrary to Title IX, and other federal and state civil rights laws, and to University policy, to retaliate against any person for asserting his/her civil rights, including filing a claim of discrimination or participating as a witness in an investigation. Retaliation or reprisals against any participant in an investigation will not be tolerated by the University. Retaliation against a person who files a claim of discrimination (including sexual harassment or sexual assault) is grounds for a subsequent claim by that person under the University's Retaliation policy (MAPP 02.05.14). If a person believes that he or she has been retaliated against as a result of filing a grievance or participating in the investigation of a grievance, he or she may pursue a separate complaint charging retaliation.

K. Filing of False Complaints.

Any employee or student who knowingly and intentionally files a false complaint under this procedure is subject to disciplinary action up to and including dismissal from the University/termination of employment.

L. Time Frames.

Time frames referenced in these procedures may be extended by the Coordinator 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.

VII. TITLE IX GRIEVANCE PROCEDURES.

This procedure shall constitute the grievance procedures for complaints alleging unlawful sex discrimination required under Title IX of the Education Amendments of 1972. As used herein, “complaint” is synonymous with “grievance”.

VIII. OTHER DISCRIMINATION GRIEVANCES/COMPLAINTS

Complaints and grievances by faculty, staff and students alleging other forms of unlawful discrimination and harassment by faculty or staff, including but not limited to unlawful discrimination/harassment based on race, color, religion, national origin, age, disability, sexual orientation or veteran status, are subject to the procedures set forth in the University’s “Complaint and Grievance Policy” – MAPP 02.05.01.

IX. REVIEW AND RESPONSIBILITIES

Responsible Party: Associate Vice President/CHRO

Review: Every three years, on or before September 1

X. APPROVAL

Kenneth Huewitt
Vice President for Administration & Finance

Austin Lane
President

Effective Date: September 2018