



Texas Christian University Policy

Policy Number: 1.005

Subject: Discrimination, Harassment, Sexual Misconduct and Retaliation (formerly referred to as Discrimination and Harassment Policy)

Effective Date: December 1, 1994

Revised: January 8, 2014
July 28, 2015

I. Policy Statement

TCU is committed to providing a positive learning and working environment free from discrimination. In support of this commitment, TCU prohibits discrimination and harassment on the basis of age, race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ethnic origin, disability, genetic information, covered veteran status, and any other basis protected by law. Discrimination and harassment are incompatible with TCU's mission to educate individuals to think and act as ethical leaders and responsible citizens in the global community, and can threaten the educational experience, careers and well-being of members of the TCU community, including employees, students, and visitors.

State and federal law protects individuals from discrimination and harassment in connection with employment. Additionally, the law also prohibits discrimination and harassment in all educational programs and activities of a school, including academic, extracurricular, athletic, housing, and other programs and activities. This protection extends to conduct that occurs both on and off University property. The law also prohibits retaliation against an individual for opposing the types of practices prohibited by this policy, for making a complaint of discrimination or harassment, or for participating in an investigation of such a complaint. Any person who believes he or she has been subject to unlawful discrimination or harassment should feel comfortable with reporting their concerns without fear of retaliation.

Acts of discrimination, harassment, sexual misconduct, and retaliation will be addressed consistent with this policy. Any employee or student who engages in conduct prohibited by this policy will be subject to disciplinary action and sanctions up to and including termination or expulsion from the University. TCU will take steps to prevent the recurrence of any harassment and to correct its discriminatory effects on a complainant and, if applicable, the TCU community.

Consistent with state and federal law, reasonable accommodations will be provided to qualified individuals with disabilities.

II. Responsibility

The Assistant Vice Chancellor for Student Affairs is the Title IX Coordinator as well as the Equal Opportunity/Affirmative Action Officer and is the person designated by the University to coordinate its efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972 (Title IX), The Age Discrimination Act of 1975, and other equal opportunity and affirmative regulations and laws, and is responsible for overseeing and administering this policy. Inquiries about TCU's policies and compliance with Title IX, The Age Discrimination Act of 1975, or the aspects of TCU's equal opportunity or affirmative action programs should be directed to:

Dr. Darron Turner
Associate Vice Chancellor, Student Affairs
TCU Box 297090
Jarvis Hall 228
Fort Worth, TX 76129
817/257-5557
d.turner@tcu.edu

The Title IX Coordinator can provide information about TCU's policies regarding Title IX and will ensure that such complaints are addressed by the appropriate University officials. The Title IX Coordinator will assist the parties in receiving support services and will facilitate any interim measures during the investigation. For additional information or inquiries regarding Title IX, you may also visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> for the address and phone number of the U.S. Department of Education office that serves your area, or call 1-800-421-3481.

The Director for the Center for Academic Services and the Director of Employee Relations are the persons designated by the University to coordinate its efforts to comply with and carry out the responsibilities under Section 504 of the Rehabilitation Act of 1973 (Section 504). A qualified individual with a disability who desires assistance within the University to seek a reasonable accommodation may contact the following:

For students:

Ms. Marsha Ramsey
Director, Center for Academic Services
TCU Box 297710
Sadler Hall 1010
Fort Worth, TX 76129
817/257-6567
m.ramsey@tcu.edu

For employees:

Ms. Kristen Taylor
Director, Employee Relations
TCU Box 298200
3100 W. Berry St.
Fort Worth, TX 76129
817/257-4161
Kristen.Taylor@tcu.edu

III. Prohibited Discriminatory Conduct

TCU prohibits discrimination, harassment, sexual misconduct and retaliation, as defined herein, and complaints alleging conduct in violation of this policy may be pursued using the grievance procedures outlined below.

A. Discrimination is conduct that excludes an individual from participation in, or denies an individual the benefits of, employment, education, or participation in a University program or activity, or conduct that otherwise adversely affects a term or condition of an individual's employment, education, or participation in a University program or activity, based on an individual's age, race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ethnic origin, disability, genetic information, covered veteran status, or any other basis protected by law. This includes failing to provide reasonable accommodation, consistent with state or federal law, to qualified individuals with disabilities.

For purposes of this policy, gender expression means the way in which one expresses one's gender identity in terms of behavior, appearance, speech and movement.

B. Harassment is prohibited by this policy if it is based on an individual's age, race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ethnic origin, disability, genetic information, covered veteran status, or any other basis protected by law. Harassment can be verbal, visual, physical or communicated in writing or electronically. It can occur in one single incident or over a period of time, and can occur under the guise of humor and even when one person does not have authority over the other. Sex-based harassment includes sexual harassment, which is further defined below. It can also include acts that are not of a sexual nature but are directed towards a person or group based on sex or sex-stereotyping, including acts of physical aggression or intimidation.

B.1 Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, including sexual assault. Sexual harassment, including sexual assault, can involve persons of the same or opposite sex.

In accordance with state and federal law, this policy prohibits two types of sexual harassment. Sexual harassment occurs when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academics or participation in a TCU program or activity, or (2) submission to or rejection of such conduct by an individual is used as the basis for a decision affecting such individual's employment, academics, or participation in a TCU program or activity.

Sexual harassment may also result in a hostile environment (as defined in B.2 below), which is also prohibited by this policy.

B.2 A Hostile Environment exists when harassment against an individual on the basis of that individual's age, race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ethnic origin, disability, genetic information, covered veteran status, or any other basis protected by law, (1) has the purpose or effect of unreasonably interfering with an individual's work or academic performance or (2) creates an intimidating, hostile or offensive environment for work, academics or participation in a TCU program or activity so as to deny or limit a person's ability to participate or benefit from TCU's programs, services or activities.

Harassment that creates a hostile environment for work, academics or other participation in a TCU program or activity violates this policy.

Examples of harassment that violate this policy include but are not limited to the following:

- *Making unwelcome verbal statements, slurs, epithets, jokes, derogatory or degrading comments, based on race, color, religion, national origin, ethnic origin, disability, age, gender, sexual orientation, gender, gender identity, gender expression, genetic information, covered veteran status, or any characteristic protected by law; asking for dates, or making sexual advances, with or without physical conduct, where the overture is unwelcome;*
- *Physical assaults of a sexual nature, such as rape, including acquaintance or date rape, or attempts to commit such an assault, and unwelcome physical conduct or conduct of a sexual nature, such as unwanted touching, impeding or blocking another person's movements, brushing against, leering at, or making sexual gestures to another person;*
- *Threatening or engaging in reprisals or retaliation after such an overture is rejected;*
- *Implying or threatening that submission to sexual advances or conduct prohibited by this policy is a condition of employment, work status, salary increase or decrease, promotion, academic admission, grades, advancement, recommendations, or participation in a program or activity;*
- *Making unwelcome sexual verbal statements, such as suggestive or off-color jokes, innuendo, comments about sexual activity, an individual's body or appearance, sexual prowess or previous sexual experience;*

- *Displaying unwelcome sexually suggestive writings, pictures, magazines, cartoons, internet material or objections;*
- *Issuing unwelcome writings such as suggestive jokes, cartoons, off-color or obscene letters, notes or invitations transmitted by e-mail, text messages, via cell phone or otherwise;*
- *Display or circulation of material that denigrates or shows hostility or aversion toward an individual or group based on a legally protected characteristic; Other unwelcome conduct which has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating or hostile environment work or educational environment. Such conduct may include intimidation, ridicule, or insults.*

C. Sexual Misconduct is a form of sex discrimination prohibited by Title IX. Sexual misconduct, as used and defined in this policy, includes sexual assault (which includes sexual intercourse with a person without that person's consent, and all other sexual contact with a person without that person's consent), sexual harassment, and sexual exploitation (which includes electronically recording, photographing, transmitting or distributing intimate or sexual sounds, images or information about another person without that person's consent), gender-based stalking, and gender-based relationship violence. Although sexual misconduct often includes unwanted or nonconsensual sexual contact, sexual contact is not necessary for an act to be considered sexual misconduct. It is also a violation of this policy to aid another in an act of sexual misconduct. Sexual harassment and/or sexual misconduct directed toward a student by another student, a TCU employee or a third party is prohibited by Title IX and by TCU.

C.1 Consent to sexual activity is defined herein as a knowing and voluntary agreement between the participants, expressed by words or by actions, to engage in sexual activity. Consent cannot be given by a person who the other person knows is asleep, unconscious, or physically unable to resist. Consent cannot be given by a person who, because of a mental disease or defect, or intoxication due to alcohol, drugs or other intoxicants, a sedative, or "date-rape" drug, is known by the other person to be incapable either of appraising the nature of the act or resisting it. Consent cannot be compelled by intimidation, deception, force, or threat of force (where the person reasonably believes the other person has the present ability to execute the threat). Consent cannot be given where an 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. Consent cannot be given if it is coerced by supervisory or disciplinary authority. Consent cannot be given by a person younger than 17 years of age. Consent to some sexual acts does not imply consent to others, and past consent to sexual activity does not imply future consent.

D. Retaliation is action taken against any person who in good faith makes a complaint of, or opposes, discrimination, harassment, or sexual misconduct of the type prohibited by this policy or who has testified, assisted or participated in an investigation of discrimination, harassment, or sexual misconduct, when such action would dissuade a reasonable person from making or supporting a charge of discrimination, harassment

or sexual misconduct. Retaliation includes acts of intimidation, threats, and other acts of discrimination. If warranted, steps may be taken to ensure that retaliation does not occur. This may include monitoring future evaluations of a complainant, respondent, or witness, and may include reassignment.

IV. Mandatory Reporting of Sexual Harassment, Sex-Based Discrimination and Sexual Misconduct Involving Students

All University employees must promptly report information they have about alleged or possible sexual harassment, sex-based discrimination or sexual misconduct involving students to the Title IX Coordinator, except employees who are statutorily prohibited from reporting such information, including licensed health-care professionals and members of the clergy. Upon receiving the information, the Title IX Coordinator will evaluate the information and determine what other actions should be taken.

V. Confidentiality

TCU will endeavor to keep the identity of a complainant and information learned in the investigation of a complaint confidential if requested. However, TCU cannot guarantee confidentiality for example, where it would conflict with the University's obligation to investigate meaningfully, take corrective action, comply with the intent of this policy, or fulfill its legal obligations.

Students should be aware that employees of TCU may have an obligation to report incidents to the Title IX Coordinator. Students who want information about an incident to remain confidential may wish to speak to a mental health professional at the Counseling Center, a medical professional at the Health Center, or a member of the clergy, acting in their professional capacities at the time an incident is reported.

If a complainant asks that his/her name not be disclosed to the other party, TCU's ability to respond to the complaint may be limited. TCU will evaluate all requests for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all students.

Whether or not a person seeks informal or formal resolution of a complaint, if the University becomes aware of conduct which may violate this policy, the University may commence its own investigation and/or remedial actions. In matters alleging sexual harassment and/or sexual misconduct, the Title IX Coordinator or his/her designee will investigate the allegations to the extent possible, even without the cooperation of the party against whom the alleged harassment or conduct was directed. The Title IX Coordinator will decide whether the accused party must be notified of the allegations before or in the course of the investigation.

VI. Procedures

The procedures outlined below are intended to provide a prompt and equitable resolution for complaints or reports of alleged discrimination, harassment, sexual misconduct or retaliation in violation of this policy **The procedures relating to investigation, resolution and appeals of complaints against students, including complaints of student-on-student sexual assault, are found in the Code of Student Conduct.**

A. Making a complaint or report

Complaints or reports should be made as soon as possible after an incident. All individuals are encouraged to report discrimination, harassment, sexual misconduct and retaliation so that prompt effective action can be taken.

All complaints and third-party reports of conduct in violation of this policy should be made to the Equal Opportunity/Affirmative Action Officer/Title IX Coordinator (“Title IX Coordinator”) or to a Deputy Title IX Officer identified below. All complaints against a student will be referred to Glory Robinson, Associate Dean of Campus Life.

There are several ways to submit a complaint or report:

- Leave a private message for the Title IX Coordinator at (817)257-8228.
- File a written complaint with the Title IX Coordinator.
- Make an appointment to see the Title IX Coordinator or one of the Deputy Title IX Officers.
- Complaints against a student for conduct alleged to have been committed by a student in violation of this policy can also be made to Campus Life – Dean’s Office.

The contact information for the Title IX Coordinator is:

Dr. Darron Turner
Associate Vice Chancellor, Student Affairs
TCU Box 297090
Jarvis Hall 228
Fort Worth TX 76129
817/257-5557 (main number)
d.turner@TCU.edu

The Deputy Title IX Officers are:

Dr. Kathy Cavins-Tull
Vice Chancellor, Student Affairs
TCU Box 297043
Sadler Hall 4017

**Fort Worth, TX 76129
817/257-7820
k.cavins@tcu.edu**

**Ms. Glory Robinson
Associate Dean, Campus Life
Student Affairs
TCU Box 297010
Sadler Hall 2006
Fort Worth, TX 76129
817/257-7926
g.robinson@tcu.edu**

**Ms. Kristen Taylor
Director, Employee Relations
Human Resources
TCU Box 298200
3100 W. Berry St.
Fort Worth, TX 76129
817/257-4161
Kristen.Taylor@tcu.edu**

**Ms. Kim Johnson
Associate Athletics Director
TCU Athletics
TCU Box 297600
3500 Bellaire Drive North
Fort Worth, Texas 76129
817/257-7950
k.n.johnson@tcu.edu**

The Title IX Coordinator coordinates and tracks all complaints and reports of conduct alleged to violate this policy. The Title IX Coordinator may handle a complaint alleging a violation of this policy, or it may be handled by one of the Deputy Title IX Officers, or another appropriate University official. The Title IX Coordinator and/or Deputy Title IX Officers may confer with one another or others when deemed appropriate.

For immediate assistance, anyone who feels physically threatened or who has been a victim of a physical assault, including sexual assault, should call 911. You can also contact TCU Police, 817-257-7777, who have access to the appropriate TCU administrator twenty-four (24) hours a day, seven days per week, or the Fort Worth Police Department.

Some forms of discrimination and harassment may violate federal and/or state laws, and some may involve criminal conduct. Reports of criminal conduct should be made to law enforcement, even if it is uncertain whether the particular conduct is a crime. In

some circumstances, conduct may violate this policy although it does not violate the law. A person may choose to use external processes to resolve his or her complaints, including contacting various agencies, instead of or in addition to pursuing the internal grievance procedures available at TCU.

B. Resolution

For the procedures for resolving a complaint against a student, see the Code of Student Conduct.

Upon receipt of a complaint or report alleging conduct in violation of this policy, TCU will take prompt and equitable action consistent with University policy, applicable laws and regulations. If a person chooses to file a complaint, he/she can pursue an informal resolution when permissible, or formal resolution. In cases involving allegations of sexual assault, informal resolution is never appropriate, even if both the complainant and the respondent request or agree to an informal resolution.

1. Initial Inquiry

The Title IX Coordinator or his/her designee will make an initial inquiry and determination of whether this policy applies.

The following examples may result in the Title IX Coordinator or his/her designee determining that this policy does not apply:

- The conduct as alleged, even if true, would not constitute discrimination or harassment as defined in this policy
- The complainant or respondent is not a TCU community member or a visitor with whom TCU has a continuing relationship or a legitimate connection to TCU
- The complainant is not the party harmed by the discriminatory or harassing conduct and the party harmed cannot be identified or does not want to pursue a complaint. However, in cases involving sexual harassment or sexual misconduct, a failure of the party harmed to cooperate or pursue charges will not necessarily result in a dismissal of a complaint.

Additional examples may exist that could result in the Title IX Coordinator or his/her designee determining that this policy does not apply. If the Title IX Coordinator or his/her designee determines this policy does not apply, the complaint will be dismissed, and the complainant and respondent will be notified in writing by the Title IX Coordinator or his/her designee. The University has several policies and procedures which can help resolve various types of complaints, and the Title IX Coordinator or his/her designee will discuss other available options or resources with the complainant and respondent if appropriate.

If it is determined that this policy applies, the complaint may be resolved by either the Informal Process or Formal Process set forth below. When a complaint is resolved

under either the Informal or Formal Process, the same complaint cannot be pursued under a separate University policy or procedure.

2. Informal Process and Resolution

If the Title IX Coordinator or his/her designee determines this policy applies, an informal process may be appropriate to resolve the complaint. If the complainant, the respondent and the Title IX Coordinator or his/her designee agree that an informal resolution should be pursued, the Title IX Coordinator or his/her designee will determine if an investigation is warranted and the most appropriate method for a resolution that is agreeable to the parties. Under the informal process, the investigation will be limited to the facts deemed useful to resolve the conflict and to protect the interests of the parties and TCU. Typically an informal resolution will be completed within thirty (30) days of receipt of the complaint. If additional time is needed, both parties will be notified.

At any time during the informal process, either party, as well as the Title IX Coordinator or his/her designee, can cease the informal process and invoke the formal resolution process.

3. Formal Process and Resolution

Step 1: If the formal resolution process is invoked, the Title IX Coordinator or his/her designee will provide information to the complainant and respondent about the policy and procedures and will also consider whether interim measures are deemed appropriate under the circumstances.

Step 2: The Title IX Coordinator or his/her designee responsible for handling the complaint (including but not limited to the Deputy Title IX Officers and the Director for Academic Services), as applicable, may personally conduct a fair and impartial investigation of the alleged policy violations, or he/she may designate one or more impartial investigators from a pool of trained, full-time employees to conduct the investigation. The University may also hire an outside investigator to conduct the investigation when deemed appropriate. All TCU community members are required to cooperate in an investigation.

During a formal investigation, the investigator(s) will attempt to interview both the complainant and the respondent. The complainant and the respondent may each consult with a collegial or professional support person/advisor (Advisor). The complainant may have their Advisor attend their interview, and the respondent may have their Advisor attend their interview. If either party selects an attorney as the Advisor, the party should provide the investigator(s) responsible for investigating the complaint at least one week's notice before any meeting or interview the Advisor will attend. The Advisor does not participate directly or make any type of representation or argument during any meeting or interview in which the Advisor is present. The investigation may also include interviews with other witnesses and other information

collection. If the Title IX Coordinator or his/her designee is aware of information that is relevant to the investigation, this information may be provided to the investigator(s).

Step 3: Typically, no later than 60 days from the date on which a formal complaint is filed, the investigator(s) will complete their investigation and prepare a written report. If additional time is needed, both parties will be notified. The investigator(s) may make a determination as to whether this policy has been violated, or the investigator(s) may refer the matter to a hearing panel consisting of one or more trained full-time employees to make the determination. If the investigator(s) refers the matter to a hearing panel for determination, the hearing panel may consider the report, request additional investigation by the investigator(s), or personally undertake additional investigation prior to making a determination. Whether or not this policy has been violated will be based on a preponderance of the evidence standard, which means the greater weight of the evidence, or, based on the evidence it is more likely than not that a fact is true or not true.

(a) If no violation of this policy is found to have occurred, the complainant and respondent will be notified in writing of the outcome by the Title IX Coordinator or his/her designee.¹ In such a case, the complainant can appeal the findings per the Appeals Process outlined below.

(b) If a violation is found to have occurred, the Title IX Coordinator or his/her designee responsible for handling the complaint will determine the corrective action, including disciplinary sanctions, to be imposed. In determining the corrective action to be imposed, the Title IX Coordinator or his/her designee may confer with others, including the appropriate dean, unit head, vice chancellor, or other University official responsible for implementing the corrective action. The complainant and respondent will be notified in writing of the outcome by the Title IX Coordinator or his/her designee within 10 days from the date the determination is made. The respondent will also be notified in writing of the corrective action to be taken. The complainant will be notified in writing of the corrective action to be taken only as permitted by Title IX and applicable privacy laws. The respondent can appeal the outcome or the corrective action imposed per the Appeals Process outlined below. In cases where the complainant has been advised of the corrective action imposed, the complainant can appeal the corrective action imposed per the Appeals Process outlined below.

After the time has passed for the respondent or complainant to file an appeal, if no appeal has been filed, or, if an appeal is filed, once it is resolved, the Title IX Coordinator or his/her designee will notify the appropriate dean, unit head, vice chancellor, or other appropriate University official responsible for implementing the decision and corrective action of the outcome and the corrective action to be taken. If the respondent or complainant files a timely appeal, interim measures may be taken or may remain in place until the appeal is resolved.

¹As used in this policy, the term “outcome” means only whether or not a policy violation was found to have occurred.

The resolution process (not including the time for appeal) will ordinarily be completed within 60 days. However, circumstances may exist or arise and additional time may be needed. If additional time is needed, the parties will be notified.

C. Appeals Process

For the procedures of appealing a decision involving a complaint against a student, see the Code of Student Conduct.

Both a complainant and respondent may appeal as set forth above by submitting a written appeal, outlining the basis for the appeal, within three (3) business days of receiving written notice of the outcome and/or corrective action, as applicable. The appeal should be filed with the Provost, whose decision will be final. In the event the Provost is unable to consider the appeal, a designee to consider the appeal will be appointed.

Where a complaint or report is investigated and a written report made by the investigator(s) and/or a hearing panel under this policy, then, except as otherwise provided in the Tenure Policy, any appeal or challenge is limited to appeal under this policy, and neither the complainant nor respondent may appeal, challenge or otherwise address the investigation, written report, corrective action or sanctions, or matters considered under this policy, through any additional appeal, mediation, panel or process under any other University policy (including but not limited to the Faculty Conflict Resolution Policy – Policy 2.016 and the Staff Conflict Resolution Policy – Policy 2.015, both of which may be viewed on the HR web site, and the Faculty Appeal Policy included in the Faculty/Staff Handbook).

VII. Sanctions/Corrective Action

Possible sanctions and/or corrective action for an individual found to be in violation of this policy include, but are not limited to the following:

- Oral or written reprimand
- Required attendance at a harassment/discrimination sensitivity program
- Oral or written warning
- Demotion, loss of salary or benefits
- Transfer or change of job, class or residential assignment or location, including removing the person from being in a position to retaliate or further harass the complainant
- Suspension, probation, termination, dismissal or expulsion
- Other action TCU deems appropriate under the circumstances

While counseling is not considered a sanction, it may be offered or required in combination with one or more sanction. Where alcohol and/or other substances are involved in the violation, such counseling may include a substance abuse program.

Sanctions and/or corrective action will be implemented by the appropriate dean, unit

head, vice chancellor or other appropriate University official.

VIII. Good Faith

Allegations must be made in good faith and not made out of malice. It is a violation of TCU 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.

IX. Policy Communication

This policy is available on the TCU Web Site and through the University Compliance Officers. Any individual, department or University organization that would like to schedule an additional training session or view training videos should contact the Campus Life Office, Human Resource Office or any other University Compliance Officer.

X. Reference to Related Policies and Resources

Affirmative Action/Equal Employment Policies/Plans
Code of Student Conduct
Conflict Resolution Policy
Faculty/Staff Handbook
Student Handbook
Policies and Procedures for Students with Disabilities
University Postings on Laws Prohibiting Discrimination
Nepotism Policy