

# Procedure 14-1 Sexual Harassment, Sexual Misconduct and Consensual Relationships

Responsible Officer: Vice President for Human Resources  
Sponsoring Department: Equal Opportunity Services  
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### ***I. Policy Statement***

The University of Texas at Arlington is committed to an academic and working environment free from inappropriate conduct of a sexual nature. Sexual harassment and sexual misconduct is prohibited and will be in violation of this policy. Sexual harassment is a prohibited practice for employees under Title VII of the 1964 Civil Rights Act as amended by the Equal Employment Opportunity Act of 1973 and the Texas Commission on Human Rights Act, and under Title IX of the Education Amendments of 1972 for students. The university will take prompt disciplinary action against any individuals on this campus who engage in actions that violate this policy.

### ***II. Scope of Policy***

This policy and its complaint procedures apply to all administrators, faculty, staff, students, visitors, and applicants for employment or admission. It is also applicable regardless of the gender of the complainant or the alleged harasser.

### ***III. Definition of Sexual Harassment***

Sexual harassment is defined by the Equal Employment Opportunity Commission (EEOC) and the courts to be any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:

- submission to such conduct is made either explicitly or implicitly a term or condition of employment (or a student's status in a course, program, or activity);
- submission to, or rejection of such conduct by an employee is used as a basis for employment decisions affecting the individual. In the case of a student, it is used as a basis for academic or decisions affecting a student; or,

- such conduct has the purpose or effect of unreasonably interfering with the individual's employment (or the student's educational experience) or creating an intimidating, hostile, or offensive academic environment.

#### **IV. *Definition of Sexual Misconduct***

Sexual misconduct includes sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional and inappropriate for the workplace or classroom. Examples of behavior that could be considered sexual harassment or sexual misconduct includes, but is **not limited** to, the following:

- A. physical contact of a sexual nature including touching, patting, hugging, or brushing against a person's body;
- B. explicit or implicit propositions of offers to engage in sexual activity;
- C. comments of a sexual nature including sexually explicit statement, questions, jokes or anecdotes, remarks of a sexual nature about a person's clothing or body, remarks about sexual activity, speculation about sexual experience;
- D. exposure to sexually oriented graffiti, pictures, posters or materials;
- E. physical interference with or restriction to an individual's movements.

#### **V. *Consensual Relationships***

It is the policy of The University of Texas at Arlington that romantic or sexual relationships between faculty members and advisor and the students they currently teach, supervise or advise and between employees in positions of authority and their subordinates are prohibited. These relationships carry the potential for creating situations that lead to sexual harassment, conflicts of interest, favoritism and low morale, and for that reason are prohibited and sanctionable. Consensual romantic and sexual relationships between a faculty member or advisor and a student or between supervisor and employee may potentially evolve into a sexual harassment case with serious implications, either from a subsequent change of attitude by the parties involved or from a complaint from a disadvantaged third party. Faculty members and advisors exercise power over students, as do supervisors over employees, whether in evaluating them, making recommendations for their promotion or future employment, or conferring other benefits. Third parties may be adversely affected by the relationship in that it places the faculty member or supervisor in a position to favor or advance one student or employee's interest at the expense of others. In instances where allegations of sexual harassment are raised within the context of what was once a consensual relationship, those allegations will be handled pursuant to the procedure provided by this policy.

#### **VI. *Complaint Procedures***

If a person believes they have been the subject of sexual harassment or sexual misconduct, it should be reported immediately to the Equal Opportunity Services Director. To achieve an environment free from sexual harassment or sexual misconduct, a faculty or staff member who is informed by an individual of a situation that could be considered sexual harassment or sexual misconduct should inform the Equal Opportunity Services Director of the situation. The EOS Director is responsible for ensuring that complaints are resolved in accordance with this policy.

#### **VII. *Reporting***

- A. The University of Texas at Arlington encourages any person who believes that he or she has been subjected to sexual misconduct or sexual harassment to immediately report the incident to

the Equal Opportunity Services Director. In no case will a complainant be required to report such behavior to the person accused of the misconduct.

- B. If a supervisor receives a complaint, the supervisor shall immediately notify the Equal Opportunity Services Director. Failure to immediately notify the Equal Opportunity Services Director is a violation of this policy.

#### **VIII. *Initiating a Complaint***

- A. In order to initiate the investigation process, the complainant should complete a complaint form with the details of the conduct that is the subject of the complaint. While an investigation may begin on the basis of an oral complaint, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the Equal Opportunity Services Director should prepare a statement of what he or she understands the complaint to be and seek to obtain verification of the complaint from the complainant.
- B. Time Limit - a written complaint must be filed within one year from the date of the occurrence of the alleged violation. Complainants are encouraged to file as soon as possible after the date of the alleged violation.

#### **IX. *Complaint Review***

- A. Within five (5) working days of receipt of a complaint, the investigator as designated by the Equal Opportunity Services Director, may either dismiss the complaint or begin an investigation of the complaint. A complaint may be dismissed if the facts alleged in the complaint, even if taken as true, does not constitute sexual misconduct or sexual harassment; the complaint fails to allege any facts that suggests sexual misconduct or sexual harassment occurred; or the appropriate resolution or remedy has already been achieved, or has been offered and rejected.
- B. If it is determined that a complaint will not be investigated, the designated investigator will send the complainant a notification letter explaining the reason for the dismissal and informing the complainant that, within ten (10) working days of the notification, he or she may appeal the decision not to proceed with a complaint investigation to the Equal Opportunity Services Director. The written appeal must explain why the decision to dismiss the complaint was in error. The Director will respond within twenty (20) working days of receipt of the appeal. The Director's decision is final. If the decision to dismiss is overturned, the complaint is sent back to the designated investigator for investigation in accordance with the procedures outlined below.

#### **X. *Complaint Investigation***

- A. Any persons thought to have information relevant to the complaint shall be interviewed, and such interviews shall be appropriately documented. Other acceptable methods for gathering information include, but are not limited to, visual inspection of relevant materials and follow-up interviews, as necessary.
- B. As part of the investigation process, the accused individual will be provided with a copy of the complaint and allowed a reasonable time to respond in writing.
- C. The complainant and the accused individual may present any document or information that is believed to be relevant to the complaint.
- D. The investigation of a complaint will be concluded as soon as possible after receipt of the complaint. In investigations exceeding 60 days, a justification for the delay shall be presented to the EOS Director for review. The complainant, the accused individual, and the supervisor will be provided an update on the progress of the investigation after the review.

## **XI. Investigation Report**

- A. Upon completion of the investigation, the investigator will prepare a proposed written report of the investigation that includes findings, a recommendation of whether a violation of the policy occurred, and recommended disciplinary action if a violation of the policy occurred. The proposed report will be forwarded to the EOS Director who will then send a copy of the report to the Provost, or appropriate Vice President, the complainant, and the accused individual.
- B. The complainant and the accused individual will be afforded an opportunity to submit comments regarding the report to the EOS Director. Note, however, that if a complaint is filed against a student, then the complainant and accused individual will not be sent a copy of the report for comments due to the Family Education Rights and Privacy Act's restrictions on disclosure of educational records.
- C. Within ten (10) working days of receiving any comments submitted by the complainant or the accused individual, the EOS Director will request further investigation into the complaint or forward the finalized report to the Provost, or appropriate Vice President.
- D. When investigations are completed as a result of Ethics Team, the Office of Assurance Services will be notified of the findings and recommendations prior to the time the written report is forwarded to senior management. Ethics team reports will not be released to senior management until the Executive Director of Assurance Services has commented on the findings and recommendations and ensured that the investigation is complete. Copies of follow-up reports relating to these investigations will be forwarded to the Executive Director of Assurance Services.

## **XII. Complaint Resolution**

- A. Within fifteen (15) working days of receiving the report, the Provost or appropriate Vice President will take one of the following actions; i) request further investigation into the complaint; ii) dismiss the complaint if the results of the completed investigation are inconclusive or there is insufficient reasonable, credible evidence to support the allegations(s); or iii) find that this policy was violated and assesses an appropriate disciplinary action.
- B. A decision that this policy was violated and the assessment of an appropriate disciplinary action shall be made upon the record provided by the investigator and shall 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. 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.
- C. If a violation of this policy occurred, disciplinary actions can include, but are not limited to written reprimands, imposition of conditions, reassignment, suspension without pay, termination, or expulsion.
- D. The Provost or appropriate Vice President shall authorize the EOS Director to send a determination letter to inform the complainant, the accused individual, and the appropriate administrative head and vice president, in writing of the decision. Note, however, that if a complaint is filed against a student, then the determination letter will be written in compliance with the Family Education Rights and Privacy Act.
- E. Imposition of any disciplinary action will be handled in accordance with the university's policy and procedures for discipline and dismissal of faculty and employees. The Dean of Students will

proceed with the imposition of any disciplinary action against a student in accordance with the University's student disciplinary procedures.

- F. EOS will monitor recommended resolutions and follow-up on disciplinary action. EOS will then document the resolution and/or disciplinary action, if any, and place the follow-up report in the case file.

**XIII. *Assistance***

During the complaint process, a complainant or respondent may be assisted by a person of his or her choice; however, the assistant may not examine witnesses or otherwise actively participate in a meeting or interview.

**XIV. *Confidentiality***

To the extent permitted by law, complaints and information received during the investigation will remain confidential and will be maintained in the Equal Opportunity Services Office. Relevant information will be provided only to those persons who need to know in order to achieve a timely resolution of the complaint.

**XV. *Retaliation***

Retaliation against individuals who have filed a charge, or participated in an investigation or opposed any unlawful practice is prohibited and will subject the person who retaliates to disciplinary action.

**XVI. *False Complaints or Statements***

Any person who knowingly and intentionally files a false complaint or makes a false statement during the course of an investigation under this policy is subject to disciplinary action up to and including dismissal.

**XVII. *Contact***

Equal Opportunity Services Office  
710 S. Davis Street  
Box 19569  
Arlington, Texas 76019  
(817) 272-2106

**XVIII. *Dissemination of Policy***

Copies of the policy are available in the Equal Opportunity Services Office and accessible at the [EOS Web Site](#). Periodic notices sent to students, employees, and supervisors about the University's Sexual Harassment, Sexual Misconduct and Consensual Relationship Policy will include information about the complaint procedure and will refer individuals to the designated office for additional information. The University will take measures to periodically educate and train employees regarding conduct that could constitute a violation of this policy.