Sexual Harassment and Misconduct Policy

Effective: October 13, 2022

The University expects students to reflect Christ

3. Title IX Sexual Assault

As required by the May 2020 Title IX regulations, the definition of Title IX Sexual Assault used in this policy incorporates the definitions of the FBI's Uniform Crime Reporting (NIBRS) program as follows:

a. Rape :
   i. The carnal knowledge of a person (i.e., penile-vaginal penetration,), without the consent of that person,
   ii. Oral or anal sexual intercourse (i.e., penile penetration) with another person without the consent of that person, and/or
   iii. To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person. An "object" or "instrument" is anything other than a penis.

b. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person (for purposes of this definition, "private body parts" means a person's breast(s), buttock(s), genitals, or other intimate parts, and prohibited fondling may be over or under clothing).

c. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. Under Texas law, individuals younger than 17 years of age are legally incapable of giving consent to sexual penetration

relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

6. Title IX Stalking

Title IX Stalking for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex that constitutes a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

protected or privileged relationships under Texas state law, including licensed professional mental health counselors, licensed medical professionals, and ordained clergy. These confidential resources can engage in confidential communications under Texas law when the information is disclosed within the scope of the provision of professional services. When an individual shares information with a confidential resource (on campus or in the community) as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless required by ethical or legal obligations that

concerning Prohibited Conduct. A Confidential Resource is any employee who is a licensed medical, clinical, or mental-health professional (e.g., physicians, nurses, physician's assistants, psychologists, psychiatrists, professional counselors, and social workers, and those performing services under their supervision), when acting in that professional role in the provision of services to a patient; and any employee providing administrative, operational, and/or related support for such health care providers in their performance of such services. The Director of Spiritual Formation is also a Confidential Resource when acting within a ministerial or pastoral role in the provision of services to a student.

Unless given permission to disclose more information by the complainant, Confidential Resources will only disclose the type of incident, date, and location if known, and not reasonably calculated to disclose personally identifiable information about the individual, but will not disclose the individual's name or other identifying details to the Title IX Coordinator. When individuals who otherwise may be Confidential Resources receive information outside of the provision of services to a patient or the Dean of Spiritual Life's ministerial relationship, the Confidential Resource is required to share that information with the Title IX Coordinator.

Responsible Employees: Except for Confidential Resources, all University Employees are designated Responsible Employees and thereby mandatory reporters of potential Title IX violations. Responsible Employees include all staff (hourly and salary), faculty, instructors, teaching assistants, and student workers who have supervisory responsibility or responsibility for the welfare of other students and learn of potential violations of this policy in the scope of their employment. Student workers who are Responsible Employees include but are not limited to Resident Assistants and Graduate Assistant Coaches. Responsible Employees ***must report immediately*** any information about suspected sexual or gender-based harassment, sexual assault, sexual exploitation, stalking, intimate partner violence, or retaliation for reporting regardless of when (both prior to or during their time at HSU) or where (both on and off campus) the alleged misconduct occurred. Responsible employees must report retaliation when they are aware of acts consistent with the policy definition of retaliation, and they have reason to believe it is occurring because of a party's participation in a Title IX process, or in order to prevent either making a report to Title IX or participation in a Title IX process. Reports must include any known details such as identities of the parties and the date, time, and location of the incident.

Texas law requires any employee of a college or university in Texas to report to the Title IX Coordinator any information regarding an alleged incident of sexual harassment, sexual assault, dating violence, or stalking, committed by or against a person enrolled at or employed by the institution at the time of the incident. *The law requires colleges to terminate employment for employees who fail to report such matters and imposes criminal penalties of up to a year in jail.*

The obligation to report applies whenever an employee receives, in the course and scope of employment, information about an alleged incident which reasonably constitutes sexual harassment, sexual assault, dating violence, or stalking committed by or against a person who was a student or employee at the time of the incident. The report must include all information known to the employee which would be relevant to an investigation or redress of the incident, including whether the alleged victim has expressed a desire for confidentiality. A party's desire for confidentiality does not relieve the employee's obligation to report.

The law encourages but

enforcement. The University recognizes that deciding among these options can be difficult and is an intensely personal decision. Individuals are encouraged to seek assistance and to explore all potential reporting and support options.

A. Emergency Resources and Law Enforcement

Emergency medical assistance and campus safety/law enforcement assistance are available both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense. Texas Education Code § 51.282 requires that HSU inform you that it is very important for victims of sexual harassment, sexual assault, dating violence, or stalking to go to a hospital for help with treatment and preservation of evidence, if applicable, as soon as practicable after an incident.

Contact law enforcement:

3. Amnesty

The University wishes to encourage good faith reports of conduct prohibited under this policy. Therefore, the University will not pursue disciplinary action against a student

should contact 911 or 325-670-1461 (on campus) immediately. The University will take action to enforce a previously implemented measure, which may include additional interim or supportive measures and/or disciplinary penalties under this Sexual Harassment and Misconduct policy or other University policies.

In evaluating whether a party has violated the conditions of an interim or supportive measure, the Title IX Coordinator has the authority to conduct expedited fact- gathering (with appropriate notice and

(3) consider the complainant’s wishes with respect to supportive measures; and

and

- determine age of the complainant; and if the complainant is a minor, or was a minor at the time of the alleged Prohibited Conduct, make the appropriate notifications under the Policy to Protect Children and Prevent Abuse.

In cases in which the Title IX Coordinator initiates an investigation or takes any other action that impacts a respondent, the Title IX Coordinator will also ensure that the respondent is notified and receives written information on available resources and options, consistent with the list outlined above, as applicable.

At the conclusion of the initial assessment, the University will proceed with one of the following options:

(1) Proceed with an investigation under the Disciplinary Resolution process. This will occur when a complainant requests an investigation and the Title IX Coordinator determines it is appropriate; when the Title IX Coordinator determines that an investigation must be pursued even when a complainant requests that no investigation be pursued; or when Adaptable Resolution is not appropriate or available.

(2) Proceed with Adaptable Resolution. This will always require the consent of the complainant. The consent of the respondent is also required when the form of resolution involves the respondent.

(3) If outside the scope of this policy, refer the matter to another appropriate office or department for resolution under the relevant policy.

(4) If the complainant requests that the University not pursue a resolution process and the University determines that it can respect that request, the University will close the report. This option could include notifying the respondent of the alleged misconduct. The level of detail shared with the respondent will be at the discretion of the Title IX Coordinator. The University may re-open the matter if the complainant subsequently requests resolution or if the University subsequently determines there is a need to re-open the matter.

C. Formal Complaints, Dismissals and Appeals of Dismissals

A formal complaint for purposes of this Sexual Misconduct policy is a document filed by a complainant or signed by the Title IX Coordinator alleging Prohibited Conduct committed by a respondent and requesting that the University investigate the allegation. When a complainant submits a formal complaint, the Title IX Coordinator will first promptly determine whether:

(1) the conduct alleged would, if proved, constitute Title IX Sexual Harassment (i.e., *Quid Pro Quo* Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, or sex-based Domestic Violence, Dating Violence or Stalking) as defined in the Sexual Misconduct Policy

(2) the conduct allegedly occurred in the University's education program or activity;

(3) the conduct allegedly occurred in the United States; and

(4) the complainant is participating in or attempting to participate in the University's

E. Balancing Complainant Autonomy with University Decision to Respond

In order to protect the safety of the campus community, the Title IX Coordinator may decide to proceed with an investigation of Prohibited Conduct (that is, either Title IX Sexual Harassment or Non-Title IX Misconduct) even if a complainant specifically requests that the matter not be pursued. The Title IX Coordinator may also initiate an investigation of potential violations of this policy even absent a formal complaint or identified complainant or respondent and even if a report has been withdrawn. If a complainant requests that the University not investigate the alleged incident, the University may gather facts about the alleged incident in a manner that complies with the confidentiality requirements described below. The Title IX Office may also look into potential violations of this policy absent a formal complaint or identified complainant or respondent. This process need not follow the Disciplinary Resolution or Adaptable Resolution procedures outlined in this policy, and may instead proceed as deemed appropriate in the discretion of the Title IX Office. In determining whether to investigate the alleged incident(s), the University will consider factors such as, for example:

(1) the seriousness of the alleged incident;

(2) whether the institution has received other reports of PCID 10e (u)a8inrtsy.o invesapd1(lie)-6
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proceedings. An advisor may not speak on behalf of the party or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings, except as specifically permitted by the hearing procedures outlined below. Generally, the Title IX Coordinator and investigator will communicate directly with the complainant or respondent, and any communications with an advisor may only occur after a FERPA waiver has been executed. An advisor should plan to make themselves reasonably available, in order to not unduly delay the scheduling of meetings or proceedings.

14. Emergency Removal and Administrative Leave

A. Emergency Removal

Where there is an immediate threat to the physical health or safety of any student or other individual arising from the alleged Prohibited Conduct, the University can remove a student or employee respondent from its education program or activity (which may include removing an employee respondent from their employment at the University) and issue any necessary related no-trespass and no-contact orders. The Title IX Coordinator will make the decision to remove a respondent from its education program or activity based on an individualized assessment and risk analysis. The Title IX Coordinator may consult with other University personnel, departments, or teams to assist in the individualized assessment and risk analysis.

If the University makes such a decision, the respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal.

B. Employee Administrative Leave

The University always maintains the discretion to place an employee respondent on paid or unpaid administrative leave during the pendency of an investigation and resolution process.

15. Adaptable Resolution

Adaptable Resolution is a voluntary and remedies-based resolution option. Adaptable Resolution may be pursued instead of Disciplinary Resolution at the request and agreement of both parties and as deemed appropriate by the University. The Title IX Coordinator will assess the request for Adaptable Resolution in light of factors such

16. Timeframe for Investigation and Resolution

The University will seek to complete the fact-gathering portion of the investigation in approximately 90 calendar days following the issuance of the notice of the investigation. In some instances, the notice of investigation may be issued the same date as the date of the report of the incident; in other instances, based on information gathered in the initial assessment, the notice of investigation may be issued at a later date. This policy designates reasonably prompt timeframes for the major stages of the investigation and resolution process (typically set forth in business days), but the University may extend any timeframe in this policy for good cause. An extension may be required for good cause to ensure, for example, the integrity and thoroughness of the investigation; to comply with a request by law enforcement; on account of the unavailability of the parties or witnesses; or for other legitimate reasons, such as intervening breaks in the University calendar, University finals periods, the complexity of the investigation, the volume of information or length of the written record, and/or the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a report under this policy.

Reasonable requests for delays by the parties will serve to extend the 90-calendar-day time period for investigation of the report. The Title IX Coordinator, in consultation with the investigator, has the authority to determine whether an extension is required or warranted by the circumstances. The University will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension.

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does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated or no policy violation is found to have occurred.

HSU expects all members of the University community to cooperate fully with the investigation and resolution procedures. It is understood that there may be circumstances in which a complainant or respondent wishes to limit their participation, and the University will respect the choice of the complainant or respondent as to how to engage in proceedings under this policy. The University may, however, move forward with an investigation and disciplinary action without the participation of a party or parties. If a complainant or respondent chooses not to answer any or all questions, or otherwise participate in an investigation for any reason, the University will evaluate whether to continue the disciplinary process. The University will not draw any adverse inference from a complainant's or respondent's decision not to participate in the investigation or any form of resolution under this policy; however, the complainant or respondent should be aware that declining to participate in the investigation may impact the timing and outcome of the case.

The University also recognizes that witnesses may be reluctant to participate in the process, but they are strongly encouraged to participate as requested by the University.

The University will not retaliate against an individual because they refuse to participate in an investigation or hearing under this policy.

18. Administrative Holds and Continuation of Disciplinary Resolution

The University will place a temporary administrative hold on a respondent's transcript pending the completion of the Disciplinary Resolution process. If a respondent withdraws while the investigation is pending, Texas law requires that the University proceed with the investigation and resolution process.

19. Disciplinary Resolution When the Respondent is a Student

During the Disciplinary Resolution process, both parties have equal rights, including the opportunity to receive a written notice of investigation; to participate in the investigation; to review and present information and evidence; to be accompanied by an advisor of their choice to any meeting; to timely and equal access to information as provided below; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the determination, rationale, and, as appropriate, any sanction; and to an appeal of the finding.

Determinations regarding responsibility by hearing officers, as described below, will be made by a preponderance of the evidence. A preponderance of the evidence means that based on all relevant evidence and reasonable inferences from the evidence, the greater weight of information indicates that it was more likely than not the alleged policy violation occurred. Evidence is relevant if it has a tendency to make a fact more or less likely than it would be without the evidence, and the fact is of consequence in the hearing officer's determination.

To the extent required by applicable law, the University's application of the procedures outlined below will be designed to ensure equal access for individuals with disabilities.

B. Investigations

1. Investigators

In cases that will be investigated, the Title IX Coordinator will appoint one or more investigators (referred to in this policy as “the investigator”) to conduct a prompt, thorough, fair, and impartial investigation. The investigator may be a University employee and/or an experienced external investigator. Any investigator used by the University will receive annual training on the issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of complainants while promoting accountability. In selecting the investigator for a particular matter, the Title IX Coordinator will take care to select an individual who does not have a conflict of interest or bias against complainants or respondents generally or an individual complainant or respondent. The Title IX Coordinator will notify the parties of the identity of the investigator and parties may, within three business days of such notice, object to the service of the investigator by providing a written statement (which may be transmitted electronically) as to why the party believes that the investigator has a conflict of interest or bias. Objections after this three-day period must be based on newly acquired information. The Title IX Coordinator will make decisions regarding such objections and the appointment of an alternate investigator, as necessary.

2. Conduct of Investigations and Relevant Evidence

During an investigation, the investigator will seek to meet separately with the

While the investigator, not the parties, is responsible for gathering relevant evidence to the extent reasonably possible, both the complainant and the respondent are encouraged to submit any information they believe may be relevant, and both the complainant and respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, photographs, and other evidence. Both parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution. In the event that a party declines to provide material information, the University's ability to gather and consider all facts may be impacted.

The investigator may also consider information publicly available from social media or other online sources that comes to the attention of the investigator. The Title IX Coordinator does not actively monitor social media or online sources, however, and as with all potentially relevant information, the complainant, respondent, or witness should

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the hearing officer in advance of the hearing.

E. Hearings

1. Scheduling of Hearings

Hearings will be scheduled no earlier than ten days after the issuance of the final investigative report.

b. Rules applicable only to Title IX Sexual Harassment hearings

Each party may have an advisor of their choice present at a hearing for the limited purpose of conducting cross-examination on behalf of that party. Advisors may be, but

Parties and advisors may refer to the copy of evidence available in the hearing for purposes of cross-examination.
Formal rules of evidence do not apply to hearings conducted by the University. The Hearing Officer may at their discretion consider statements of a party or witness made before or at a hearing and/or other information, regardless of whether the party or witness appears at or answers some or all cross-examination questions at a hearing. The Hearing Officer will determine the appropriate weight for such information based on the totality of available relevant evidence. Hearing Officers will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross- examination or other questions.

c. Procedures applicable only to Non-Title IX Misconduct hearings

Each party will have the opportunity to be heard and to respond to any questions of the hearing officer. The parties may not directly question one another, although they or their advisors may proffer questions for the hearing officer, who may choose, in their discretion, to pose appropriate and relevant questions.

The hearing officer has the discretion to determine the hearing format. A broad overview will be provided to both parties prior to the hearing. Both the complainant and the respondent have a right to be present at the hearing, but neither party is required to participate in the hearing in order for the hearing to proceed. Either party may request alternative methods for participating in the hearing that do not require physical proximity to the other party, including participating through electronic means. The University has the discretion as well to choose whether the hearing occurs with all parties physically present in the same geographic location or, whether any or all parties or witnesses may appear at the live hearing virtually.

Although as a general rule the University expects that the parties will participate in the hearingE at12 (he4 (h)10)6 (ng)9.96 (udi)4 (i)6355 (he U)6 (ni)6 (v)4 (er)76 (n)(as)14 (a)10 (t)12(a

- the impact of the conduct on the complainant;
- the impact or implications of the conduct on the community or the University;
- prior misconduct by the respondent, including the respondent's relevant prior discipline or criminal history (if available);
- maintenance of a safe and respectful environment conducive to learning;
- protection of the University community; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Sanctions may be imposed individually or in combination. For violations of this policy, the following sanctions, listed in ascending order of severity, may be imposed:

Warning: A formal admonition, which appears in an individual's disciplinary record at the University.

Disciplinary Probation: A more serious admonition may be assigned for a definite period of time. Findings of misconduct that resulted in disciplinary probation may be considered in determining subsequent sanctions, even if the probation period has

Expulsion: This is permanent termination of student status at the University, without any opportunity for readmission. Relevant information remains in the student's disciplinary record at the University and may be disclosed by the University when the student consents in writing or as otherwise required or permitted by law.

Transcript notations: The university generally follows the guidelines for notations on transcripts promulgated by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). However, the university may vary from such standards as it deems necessary or as required by law.

If a student becomes ineligible to reenroll at HSU for other than academic or financial reasons, the university is required by Texas law to include a notation on the student's transcript of such ineligibility pursuant to *Texas Education Code section 51.9364*. “Ineligible to enroll” for reasons other than financial or academic is based on the

Restriction of Access to Space, Resources, and Activities: When appropriate, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact between the parties.U1 3 Td[

23. Records Retention

In accordance with the Title IX Office's record retention policy, the office will maintain, mor example, records of all reports. Disciplinary Resolution, Adaptable Resolution, and steps taken to eliminate prohibited conduct, prevent its recurrence, and address its effects. Findings of responsibility will also be included in a student's disciplinary record maintained by Student Conduct Administration and/or an employee's personnel records.

24. Violations of Law

Conduct that violates this policy also may violate the laws of the local jurisdiction in which the incident occurred and subject a respondent to criminal prosecution by the presiding authority. More information about violations of Texas criminal law can be found in the University's Annual Campus Safety Report. Conduct that violates this policy also may subject a respondent to civil liability.

Students and employees studying, working, or engaging in other activities at locations outside of Texas are governed by the applicable laws regarding sexual assault and other criminal offenses implicated by this policy. Where the University has jurisdiction