C. University Policies

General Statement Regarding Peaceful Public Assembly at UTSA

The freedoms of speech, expression, and assembly are fundamental rights of all persons and are central to the mission of the university. Students, faculty, and staff, when not operating in their official capacity, have the right to assemble, to speak, and the corresponding rights to hear the speech of others when they choose to listen, and to ignore the speech of others when they choose not to listen.

However, these activities are subject to the well-established right of colleges and universities to regulate time, place, and manner so that the activities do not intrude upon or interfere with the academic programs, administrative processes or other authorized activities of the university. The university shall not discriminate on the basis of the political, religious, philosophical, ideological, or academic viewpoint expressed by any person. Further, no expression or assembly may be conducted in a way that damages or defaces property of the university or of any person who has not authorized the person engaging in expression or assembly to damage or deface his or her property.

University staff, faculty and students may peaceably assemble anywhere on the UTSA campuses that they are otherwise permitted to be without advanced permission, as long as there is no disruption to other university activities. In keeping with the university’s mission, any program or event sponsored by an academic or administrative unit of the university shall have priority in the use of space and facilities over any speech, expression, and assembly that is not sponsored by an academic or administrative unit.

No person, including a student or university employee, shall distribute any petition, handbill, object, or piece of literature; post or carry any sign, placard, or banner; or engage in speech or conduct on property or in buildings or facilities owned or controlled by UTSA if it is obscene, unlawfully defamatory, or directed to inciting or producing imminent lawless action and is likely to incite or produce such action. Further, no person may attempt to coerce, intimidate, or badger any other person into viewing, listening to, or accepting a copy of any communication or persist in demanding the attention of any other person after that other person has attempted to walk away or has clearly refused to attend to the speaker’s communication. Persons or organizations who are planning a public assembly with more than 50 participants are strongly encouraged to notify and consult with the executive director of the University Center or his/her designee (herein referred to as the executive director) as soon as practicable after the point at which the planners anticipate or plan for more than 50 participants. Persons or organizations planning smaller assemblies are encouraged to consult the executive director if there is uncertainty about applicable university rules, the appropriateness of the planned location, or possible conflict with other events. The executive director has experience in helping student organizations structure events in ways that both comply with the university’s rules and achieve the organization’s goals for the event. The executive director can help identify appropriate space and potentially conflicting events, as well as help the planners avoid unintended disruption or other violations.

Other generally applicable or narrowly localized rules, written and unwritten, incidentally limit the time, place, and manner of speech, but are too numerous to compile or cross-reference in this policy. For example, libraries typically have highly restrictive rules concerning noise; fire and safety codes prohibit the obstruction of exits and limit the constrict of hallways; classroom speech may be confined to the subject matter of the class; and individual professors may have rules of decorum in their classroom. Such rules must be viewpoint neutral and should not restrict speech more than is reasonably necessary to serve their purpose.

Section 9.37(I), University of Texas at San Antonio, Handbook of Operating Procedures. For the complete Peaceful Public Assembly Policy, please refer to the Handbook of Operating Procedures (http://utsa.edu/hop/chapter9/9-37.html).

Posting Materials on Campus

A student or student organization may publicly post an approved sign on University property. Signs include billboards, decals, notices, placards, posters, and any kind of hand-held signs. Posting is defined as any means used for displaying a sign. A detailed explanation of University posting policy may be obtained from the Student Activities Office at UC 1.210 (Main Campus) or DB 1.302 (Downtown Campus). All materials must be approved for posting by the Student Activities Office (http://utsa.edu/SA).

Solicitation on Campus

Series 80000, Rule 80103 (http://www.utsystem.edu/bor/rules/A9), of the Regents’ Rules and Regulations states that no solicitation shall be conducted on any property, street, or sidewalk or in any building, structure, or facility of the UTSA Campus, except by the officers or employees of the University, acting in the course and scope of their authority, or by the Student Government (SG), or by a registered student, faculty, or staff organization of this institution. Such activities must be conducted in a manner that:

1. does not disturb any academic programs or administrative activities of the University or any program or activity that is authorized by The University of Texas System;
2. does not interfere with entry to or exit from a building, structure, facility or with the flow of pedestrians or vehicular traffic on sidewalks or streets or at places of ingress and egress to and from property, buildings, or facilities;
3. does not harass or intimidate the person or persons being solicited; and
4. does not violate applicable State, Federal, or local laws or regulations.

Non-University groups, individuals, or associations are not permitted to solicit, distribute, or circulate any petitions, handbills, or other literature in University buildings or on the grounds.

Newspaper vending is permitted only in the areas designated in advance by the President or his delegate. Any requests for other newspapers and/or additional distribution areas should be directed in writing to the Vice President for Business Affairs. Prior authorization to conduct solicitations or distribution of materials on campus by registered student organizations or by registered faculty or staff organizations must be obtained through the Office of the Vice President for Student Affairs (student organizations) or through the Office of the Vice President for Business Affairs (faculty or staff organizations). Persons desiring to conduct solicitations or to distribute materials strictly for personal reasons or for personal profit or gain will under no circumstances be granted permission to do so.
Any violation of the above policy should be reported to the Office of the Vice President for Business Affairs, 210-458-4201.

Additional information on UTSA’s solicitation policy may be obtained at http://utsa.edu/hop/chapter9/9-10.html or the Student Activities Office located at the Student Union 1.210 (Main Campus) or Durango Building 1.302 (Downtown Campus).

**Nondiscrimination and Sexual Harassment Policy**

It is the policy of The University of Texas at San Antonio (UTSA) to maintain an educational and working environment that provides equal employment opportunity and equal access to use of University programs, services, and activities. In accordance with federal and state law, the University prohibits unlawful discrimination on the basis of race, color, sex, religion, national origin, age, disability, citizenship, and veteran status. Likewise, sexual harassment (including sexual violence) in any form will not be tolerated. Discrimination on the basis of sexual orientation, gender identity and gender expression are also prohibited pursuant to University policy. This policy applies to UTSA administrators, faculty, staff, students, visitors, and applicants for employment or admission. The Director of Equal Opportunity Services (EOS) serves as UTSA’s Equal Employment Opportunity (EEO) Officer and Title IX Coordinator.

Title IX of the Education Amendments of 1972 prohibits discrimination based on gender in educational institutions, including sexual harassment and sexual violence. The Campus Sexual Violence Elimination Act (SaVE) prohibits Intimate Partner Violence pursuant to University policy.

The Director of Equal Opportunity Services, the Title IX Coordinator, and the Office of Equal Opportunity Services (EOS) are authorized to investigate complaints. The EOS office is located in the North Paseo Building (NPB), Room 5.130, telephone number 210-458-4120.

The University keeps information confidential to the extent permitted by law. If applicable, an individual’s desire to maintain anonymity will be honored unless it constrains attempts at establishing facts and eliminating unwanted conduct. In such cases, the University balances the individual’s desire for privacy and confidentiality with its commitment to provide an environment free of harassment and discrimination. Relevant information will be provided to those with a need to know in order to achieve resolution of the complaint.


**Definitions**

**Discrimination**, including harassment, is defined as conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education on account of race, color, sex, religion, national origin, age, disability, citizenship, veteran status, sexual orientation, gender identity or gender expression.

**Harassment**, as a form of discrimination, is defined as verbal or physical conduct that is directed at an individual or group because of race, color, sex, religion, national origin, age, disability, citizenship, veteran status, sexual orientation, gender identity or gender expression when such conduct is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of interfering with an individual’s or group’s academic or work performance; or of creating a hostile academic or work environment. Constitutionally protected expression cannot be considered harassment under this policy.

**Sexual Harassment** is a form of sex discrimination and includes unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment or student status; (2) submission to or rejection of such conduct is used as a basis for evaluation in making personnel or academic decisions affecting that individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s performance as an administrator, faculty member, staff or student, or creating an intimidating, hostile, or offensive environment.

**Sexual Misconduct**, which includes Sexual Violence and Intimate Partner Violence, is a form of sexual harassment which includes sexual assault, sexual battery, sexual coercion, domestic violence, dating violence and stalking. Sexual Violence is a violation of the Texas Penal Code, UTSA policy, and Title IX of the Education Amendments of 1972.

**Examples**

Behavior that could be considered sexual harassment includes but is not limited to: (1) physical contact of a sexual nature including touching, patting, hugging, or brushing against a person’s body; (2) acts of sexual violence and intimate partner violence; (3) explicit or implicit propositions or offers to engage in sexual activity; (4) comments of a sexual nature including sexually explicit statements, questions, jokes, or anecdotes; (5) remarks of a sexual nature about a person’s clothing or body; (6) remarks about sexual activity, speculation about sexual experience; (7) exposure to sexually oriented graffiti, pictures, posters, or materials; and/or (8) physical interference with or restriction of an individual’s movements. Such conduct is expressly prohibited and offenders are subject to disciplinary action.

**Reporting Responsibilities**

Any person who believes they have been subjected to discrimination or harassment is urged to immediately report the incident to EOS. Faculty and staff are required to immediately report to EOS complaints of discrimination, harassment and sexual violence made to them by faculty, staff, students, or visitors.

**Resolution Options**

A person who believes that he or she has been subjected to discrimination or harassment, including sexual harassment in violation of this policy, may take action through an informal resolution process or a formal complaint process, or both. However, the informal resolution process cannot be used for complaints of sexual violence. The informal resolution and formal complaint resolution process described in this policy are not mutually exclusive and neither is required as a precondition for choosing the other; however, they cannot both be used at the same time.

**Informal**

The informal resolution process may be used as a prelude or an alternative to filing a formal complaint. Informal resolution may be an appropriate choice where the conduct is not of a serious or repetitive nature and disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process except as determined by EOS. Assistance is provided in an attempt to resolve
possible discrimination or harassment if the individual does not wish to file a formal complaint. Such assistance includes: (1) strategies for the individual to effectively inform the offending party that his or her behavior is offensive and should cease; (2) action by an appropriate University official to stop the offensive conduct; or (3) modification of the situation in which the offensive conduct occurred. However, the University may take more formal action to ensure an environment is free of discrimination and harassment. EOS will document informal resolutions and retain such documentation.

Formal

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

UTSA encourages any person who believes that he or she has been subjected to discrimination or harassment to immediately report the incident to his or her supervisor, EOS, Human Resources, or Student Conduct and Community Standards. The complainant will be advised of the procedures for filing a formal complaint of discrimination. Complaints should be filed as soon as possible after the conduct giving rise to the complaint within 30 days after the event occurred. In the case of a currently enrolled student, if the last day for filing a complaint falls prior to the end of the academic semester in which the alleged violation occurred, then the complaint may be filed within thirty (30) calendar days after the end of that semester. Complaints involving sexual violence do not have to be reported within the 30 day window, but should be reported as soon as possible.

In order to initiate the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant’s name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documents or information relevant to the complaint. While an investigation may begin on the basis of an oral complaint, the complainant is strongly encouraged to file a written complaint. Complaint forms are located on the Office of Equal Opportunity Services website (http://utsa.edu/eos).

Within ten (10) working days of receipt of a complaint, EOS may either dismiss the complaint or authorize an investigation. A complaint may be dismissed if the facts alleged would not constitute discrimination or harassment; the complaint fails to allege facts relevant to discrimination or harassment; or the appropriate resolution or remedy has already been achieved or offered and rejected. If a complaint will not be investigated, EOS will notify the complainant to explain the reason for the dismissal and inform the complainant that, within fifteen (15) working days of the notification, he or she may appeal the decision not to proceed with a complaint investigation to the Chief Legal Officer, explaining why the decision was in error. A response will be sent in twenty (20) working days from receipt of the appeal. The Chief Legal Officer’s decision is final.

As part of the investigation process, the accused individual will be provided notice of the complaint and allowed a reasonable time to respond in writing. The complainant and accused individual may present documents or information believed to be relevant to the complaint. Any persons who may have relevant information will be interviewed and such interviews will be appropriately documented. The investigation will be conducted as soon as possible and, upon completion of the investigation, a written report will be issued. The report shall include: a recommendation of whether a violation of the policy occurred, an analysis of the facts discovered during the investigation, any relevant evidence, and recommended disciplinary action if a violation of the policy occurred. For employees, the report will be sent to the appropriate vice president who has authority over the respondent, and a copy will be provided to the complainant and the respondent. Title IX complaints for student on student sexual harassment will be provided to the Dean of Students (DOS) for disposition; however, in accordance with the Family Education Rights and Privacy Act (FERPA), in complaints involving student-on-student conduct, neither the complainant nor the respondent will receive a copy of the report. In keeping with FERPA, the student complainant and student respondent will be provided letters summarizing the findings and recommendations included in the report provided to the Dean of Students (DOS). The complainant and respondent will also be allowed to review the report.

The complainant and respondent have seven (7) working days from the date of the report to submit comments regarding the report to the appropriate party for review. Within ten (10) working days of receiving any comments submitted by the complainant or respondent, the appropriate vice president for employees or the DOS for students will take one of the following actions: (1) notify both the complainant and respondent that a review is in progress; (2) request further investigation into the complaint; (3) dismiss the complaint if the results of the completed investigation are inconclusive or there is insufficient reasonable credible evidence to support the allegation(s); or (4) find that the policy was violated. A decision that the policy was violated shall be made based upon the record provided by the investigator and any comments submitted by the complainant or respondent.

The complainant and the respondent shall be informed in writing of the administrative official’s decision. If it is determined that the policy was violated, the appropriate vice president for staff or the DOS for students will refer the matter for disciplinary action under the applicable disciplinary policies and procedures. NOTE: Applicable disciplinary policies and procedures depend on the status of the respondent (i.e., student, faculty or employee).

During the complaint process, a complainant or respondent may be accompanied by a person of his or her choice; however, this individual may not actively participate in a meeting or interview.

An administrator, faculty member, student, or employee who retaliates in any way against an individual who has brought a complaint pursuant to this policy or an individual who has participated in an investigation of such a complaint is subject to disciplinary action, including dismissal. Individuals shall not be penalized, disciplined, or prejudiced who in good faith report a violation or policy, procedure or law. The Office of Equal Opportunity Services will document complaints and retain such documentation.

Policy on AIDS, HIV Infection, and HBV

The University of Texas at San Antonio recognizes Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) as serious public health issues and is committed to encouraging an informed and educated response to concerns and questions regarding these infections. Please refer to the Handbook of Operating Procedures, Chapter 9, 9.22 (http://utsa.edu/hop/chapter9/9.22.html), for the most current policy.

Educational materials and questions regarding HIV and Hepatitis B virus can be addressed at Student Health Services. Contact Student Health
Prohibition of Hazing

Under state law (§ 37.151 through 37.157 (http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.37.htm#F) and 51.936 (http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm#51936), Texas Education Code) individuals or organizations engaging in hazing could be subject to fines and charged with a criminal offense.

According to law, a person can commit a hazing offense not only by engaging in a hazing activity but also by soliciting, directing, encouraging, aiding, or attempting to aid another in hazing; by intentionally, knowingly, or recklessly allowing hazing to occur; or by failing to report in writing to the Office of Student Life (http://utsa.edu/studentlife) firsthand knowledge that a hazing incident is planned or has occurred. The fact that a person consented to or acquiesced in a hazing activity is not a defense to prosecution for hazing under the law.

In an effort to encourage reporting of hazing incidents, the law grants immunity from civil or criminal liability to any person who reports a specific hazing event to the Office of Student Life and immunizes that person from participation in any judicial proceeding resulting from that report.

The penalty for failure to report hazing activities is a fine not to exceed $2,000, up to 180 days in jail, or both. Penalties for other hazing offenses vary according to the severity of the injury that results; they range from individual fines of $2,000 and/or up to 180 days in jail to individual fines of up to $10,000 and/or a state jail term of not less than 180 days or more than two years. Organizational penalties include fines of not less than $5,000 or more than $10,000. If the organizational hazing activity resulted in personal injury, property damage, or other loss, the penalty is a fine of not less than $5,000 or more than double the amount lost or expenses incurred because of the injury, damage, or loss.

The law defines hazing as any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or engaging in a hazing activity but also by soliciting, directing, encouraging, aiding, or attempting to aid another in hazing; by intentionally, knowingly, or recklessly allowing hazing to occur; or by failing to report in writing to the Office of Student Life (http://utsa.edu/studentlife) firsthand knowledge that a hazing incident is planned or has occurred. The fact that a person consented to or acquiesced in a hazing activity is not a defense to prosecution for hazing under the law.

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The law defines hazing as any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization whose members are or include students at an educational institution. Hazing includes but is not limited to:

1. any type of physical brutality, such as whipping, beating, striking, branding, electric shocking, placing of a harmful substance on the body, or similar activity;
2. any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or which adversely affects the mental or physical health or safety of the student;
3. any activity involving consumption of food, liquid, alcoholic beverage, liquor, drug, or other substance which subjects the student to an unreasonable risk of harm or which adversely affects the mental or physical health of the student;
4. any activity that intimidates or threatens the student with ostracism; that subjects the student to extreme mental stress, shame, or humiliation; that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution; or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described in this section;
5. any activity that induces, causes, or requires the student to perform a duty or task which involves a violation of the Penal Code.

Activities that under certain conditions constitute acts that are dangerous, harmful, or degrading, in violation of subsection 202(A)(10) of the Student Code of Conduct (http://catalog.utsa.edu/informationbulletin/appendices/studentcodeofconduct), include, but are not limited to:

- calisthenics, such as sit-ups, push-ups, or any other form of physical exercise;
- total or partial nudity at any time;
- the eating or ingestion of any unwanted substances;
- the wearing or carrying of any obscene or physically burdensome article;
- paddle swats, including the trading of swats;
- pushing, shoving, tackling, or any other physical contact;
- throwing oil, syrup, flour, or any harmful substance on a person;
- rat court, kangaroo court, or other individual interrogation;
- forced consumption of alcoholic beverages either by threats or peer pressure;
- lineups intended to demean or intimidate;
- transportation and abandonment (road trips, kidnaps, walks, rides, drops);
- confining individuals in an area that is uncomfortable or dangerous (hot box effect, high temperature, too small);
- any type of personal servitude that is demeaning or of personal benefit to the individual members;
- wearing of embarrassing or uncomfortable clothing;
- assigning pranks such as stealing, painting objects, or harassing other organizations;
- intentionally messing up the house or a room for clean-up;
- demeaning names;
- yelling and screaming; and
- requiring boxing matches or fights for entertainment.

(Adapted from the ARCH Chapter and Undergraduate Councils of Delta Tau Delta Fraternity.)

Non-Smoking Policy

UTSA is a tobacco- and smoke-free campus. Smoking and the use of tobacco products are prohibited in and on all University-owned and leased property to include buildings, grounds, resident and housing areas, parking lots and structures, green space, sidewalks, walkways,
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and personal vehicles on the property. Tobacco products are defined as all forms of tobacco products including but not limited to cigarettes (of any kind, including herbal/spice cigarettes), cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff, and chewing tobacco. Details regarding the policy can be found in Section 9.36 (http://utsa.edu/hop/chapter9/9-36.html) of the Handbook of Operating Procedures. Compliance with the policy is the responsibility of all members of the University community, including contractors, vendors, and visitors. Violations will be dealt with on a case-by-case basis in accordance with established disciplinary policies of the University.