

# SEXUAL HARASSMENT AND SEXUAL MISCONDUCT POLICY

## I. Policy Statement

University of Texas at San Antonio (UTSA) (the University) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct, as defined in Section VII Definitions, will not be tolerated and will be subject to disciplinary action.

The University will promptly discipline any individuals or organizations within its control who violate this Policy. The University encourages you to promptly report violations of this Policy to the Title IX Coordinator or Deputy Coordinators (collectively "EOS/Title IX Office (<http://www.utsa.edu/eos/>") or a Responsible Employee, as identified in Section VII below.

**Free Speech.** This Policy encourages and respects the right of free speech guaranteed by the First Amendment of the Constitution and the principles of academic freedom. Constitutionally protected expression cannot be considered harassment under this policy. Each faculty member is entitled to full freedom in the classroom in discussing the subject which they teach. The right to free speech and principles of academic freedom are not absolute, however. The offensive conduct underlying some incidents might be protected speech, but it may still be in contradiction to the University's commitment to academic freedom, integrity, honesty, dignity, respect and honorable conduct (see generally Regents Rule 10901, *Statement of U.T. System Values and Expectations*). In these instances, constitutional rights will continue to be protected, but the University will also exercise its right to speak and engage in educational dialogue with those engaged in these types of behaviors. Further, some offensive conduct, even though it contains elements of speech, may rise to the level of the type of conduct that creates a sexually hostile environment and, thus, violates this policy.

## II. Rationale

This policy is the principal prohibition of sexual harassment (including sexual violence), sexual misconduct, domestic violence, dating violence, and stalking regardless of where it occurs, including both on and off University property, if it potentially affects the alleged victim's education or employment.

## III. Scope

This Policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for admission or employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University or potentially affects the University community. It also applies regardless of the gender, gender identity or sexual orientation of the parties. In addition, it applies to any complaint made verbally or in writing.

## IV. Website Address for This Policy

To review the entire policy including all definitions and processes please visit this website: <http://www.utsa.edu/hop/chapter9/9-24.html>

## V. Related Statutes, Policies, Requirements or Standards

UTSA or UT System Policies or the Board of Regents' *Rules and Regulations*:

1. Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships (<http://www.utsystem.edu/board-of-regents/rules/30105-sexual-harassment-and-misconduct-and-inappropriate-consensual-relations/>)
2. University of Texas System Administration System wide Policy (UTS 184), Consensual Relationships (<http://www.utsystem.edu/board-of-regents/policy-library/policies/uts184-consensual-relationships/>)
3. University's Sex Harassment and Sexual Misconduct Policy (<https://www.utsa.edu/hop/chapter9/9-24.html>)
4. Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member (<http://www.utsystem.edu/board-of-regents/rules/31008-termination-faculty-member/>)
5. UTSA HOP policy 3.03 Discipline and Dismissal of Personnel (<http://www.utsa.edu/hop/chapter3/3-3.html>)
6. UTSA Student Discipline Policy (<http://catalog.utsa.edu/informationbulletin/appendices/studentcodeofconduct/>)

Relevant Federal Statutes and Other Policies & Standards:

1. Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 (<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title20/pdf/USCODE-2013-title20-chap38.pdf>) and its implementing regulations, 34 C.F.R. Part 106.
2. Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 (<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/pdf/USCODE-2013-title42-chap21-subchapVI.pdf>) and its implementing regulations 29 C.F.R. §1604.11.
3. Clery Act, 20 U.S.C 1092(f) (<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title20/pdf/USCODE-2013-title20-chap28-subchapIV-partF-sec1092.pdf>) and its implementing regulations 34 C.F.R. Part 668 (<http://www.gpo.gov/fdsys/pkg/CFR-2013-title34-vol3/pdf/CFR-2013-title34-vol3-part668.pdf>)
4. FERPA Regulations, 34 C.F.R. Part 99 (<http://www.gpo.gov/fdsys/pkg/CFR-2013-title34-vol1/pdf/CFR-2013-title34-vol1-part99.pdf>)
5. Texas Education Code, Subchapter E-2: Reporting Incidents of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking §51.251-51.259 (<https://statutes.capitol.texas.gov/Docs/ED/htm/ED.51.htm#51251>)
6. Texas Education Code, Subchapter E-3: Sexual Harassment, Sexual Assault, Dating Violence, and Stalking §51.281-51.291 (<https://statutes.capitol.texas.gov/Docs/ED/htm/ED.51.htm#51281>)

System Administration Office(s) Responsible for Policy  
Office of System wide Compliance

## **VI. Contacts**

If you have any questions about HOP policy 9.24 Sexual Harassment and Sexual Misconduct, contact the following office:

Suzanne Patrick  
Director and Title IX Coordinator  
Office of Equal Opportunity Services  
North Paseo Building – Suite 5.130  
Suzanne.Patrick@utsa.edu  
210-458-4120  
<https://www.utsa.edu/eos/>