

<b>Policies of the University of North Texas at Dallas</b>	Chapter 5
<b>5.038 Prohibition of Sexual Assault and Retaliation</b>	<b>Human Resources</b>

**Policy Statement.** The University of North Texas at Dallas (the “University”) is committed to maintaining a work and educational environment free from sexual assault and retaliation. Conduct that is inconsistent with this commitment will not be tolerated at any location, program or other activity associated with the university.

**Application of Policy.** This policy applies to all students, faculty, staff, and applicants for employment or admission, individuals and organizations conducting business on behalf of or for the University of North Texas at Dallas, visitors and participants at any location, program or other activity associated with the University. The University may act under this policy when prohibited conduct that occurs off-campus adversely affects or has a reasonable likelihood of adversely affecting the academic or work environment.

**Definitions.**

1. **Complainant.** “Complainant” means an individual who may have been the subject of conduct prohibited under this policy regardless of whether the individual reports the conduct.
2. **Confidential Employee.** A University of North Texas at Dallas employee who is not obligated to disclose reports of sexual assault as required under this policy based on the requirement of the employee’s professional licensure and the nature of her or his official responsibilities with the University. Confidential Employee, as defined in this policy, includes but is not limited to licensed professional mental health counselors and health care professionals working in those capacities for the University and the employees they supervise, sexual assault advocates as defined in section 420.071 of the Texas Government Code, and attorneys and employees in the UNT System Office of General Counsel. Faculty, staff and other employees who are licensed mental health workers, licensed medical workers, or licensed attorneys but who are not employed in that capacity by the University, such as faculty members in psychology, social work, nursing, etc., are not Confidential Employees under this policy.
3. **Consent.** Words or actions that show an active, knowing and voluntary agreement to engage in sexual activity. Consent cannot be gained by force, coercion, manipulation, threats, or by taking advantage of the incapacitation of another when the individual knows or reasonably should know of such incapacity by use of alcohol or drugs. Consent is absent when the activity in question exceeds the scope of previously given consent, or the person is unconscious or otherwise unaware that the prohibited conduct is occurring. Consent may be revoked at any time.
4. **Days.** “Days” mean calendar days unless otherwise stated in the policy.

5. Employee. “Employee” means an individual who is employed part-time, full-time, or in a temporary capacity as faculty, staff, or who is required to be a student as a condition of employment.
6. Good Faith. “Good Faith” means a reasonable belief that reported conduct or behavior is prohibited under this policy. Good faith is based on the reporting individual’s education, training, and experience.
7. Preponderance of the Evidence. “Preponderance of the Evidence” means the amount of information necessary to establish whether an allegation is more likely than not to have occurred (i.e., more likely true than not true). Preponderance of the evidence also is referred to as the greater weight of the evidence.
8. Respondent. “Respondent” means an individual or organization identified as possibly having engaged in conduct prohibited under this policy regardless of whether a formal complaint is made.
9. Retaliation. “Retaliation” means any action, treatment or condition likely to dissuade a reasonable person from reporting or causing to report or participating in an investigation of a suspected violation of this policy, from filing a criminal complaint, or from accessing services provided under this policy, including an action that affects an individual’s educational or other relationship with the University or an employee’s compensation, promotion, transfer, work assignment, or performance evaluation.
10. Sexual Assault. “Sexual Assault” means the intentional or knowing penetration, no matter how slight, of the sex organ or anus with any body part or object, or oral sex, without consent of the complainant. The term sexual assault also is referred to as rape.
11. Student. “Student” means an individual who has applied for admission or readmission to the University of North Texas at Dallas, who is registered or enrolled in one or more courses for credit at the University, or who currently is not enrolled but has a continuing academic relationship with the University.
12. Title IX Coordinator. “Title IX Coordinator” means a University of North Texas at Dallas employee designated by the President to implement, monitor, and enforce the University’s Title IX program. In this policy, reference to the Title IX Coordinator also means her or his designee.

## **Procedures and Responsibilities.**

### **Reporting.**

1. Reporting Sexual Assault and Retaliation:
  - a. Call 911. A person who believes sexual assault is imminent should immediately call 911.

Responsible Party: Law Enforcement

- b. Other Reports. A person may report a sexual assault that occurs on campus to the UNTD police department and may report an assault that occurs off campus to local police. A student who believes she or he has been sexually assaulted may inform the Dean of Students (Title IX Coordinator Office). Other individuals may report the conduct to the System Administration Office of Equity, Diversity and Inclusion.

Responsible Party: System Administration Office of Equity, Diversity and Inclusion/Dean of Students

- c. Anonymous Reporting. Individuals wishing to remain anonymous may report suspected assault or retaliation to the UNT System Compliance Hotline.

Responsible Party: Compliance Office

## 2. Reporting Obligations:

- a. Employees and individuals authorized to act on behalf of the University of North Texas at Dallas who become aware of a suspected sexual assault or retaliation are required to immediately report the suspected violation to his or her direct supervisor and to the System Administration Office of Equity, Diversity and Inclusion. If a direct supervisor is the person alleged to have engaged in the prohibited conduct, the report must be made to that individual's supervisor and to the System Administration Office of Equity, Diversity and Inclusion. In no instance is an individual required to report the alleged violation to the person suspected of the prohibited conduct.

Responsible Party: Employees and Individuals Acting on Behalf of the Organization.

- b. Students and other individuals, including guests of the University of North Texas at Dallas, are encouraged to report suspected assault or retaliation to the Dean of Students or System Administration Office of Equity, Diversity and Inclusion.

Responsible Party: Other Individuals.

- c. Exception to Obligation to Report. Confidential employees, as defined in this policy, are not obligated to report prohibited conduct under this policy. These individuals are expected to report as required by the rules of their professional license and nothing in this policy shall be interpreted as conflicting with those rules.

Protection against Retaliation. Retaliation against any person who reports or encourages another to report sexual assault or retaliation, who participates in an investigation conducted under this policy, or who seeks assistance or guidance from any University of North Texas at Dallas department or external official or organization authorized to remediate conduct prohibited under this policy is strictly prohibited.

### Confidentiality.

1. Confidentiality. Information that reasonably could lead to the identification of a Complainant or an individual who reports or participates in an investigation conducted under this policy is confidential and shall not be disclosed except as required by law, including when disclosure is necessary to ensure individuals accused of violating this policy are afforded lawful notice and the opportunity to fully respond to the accusation. Information also may be confidential under the Family Educational Rights and Privacy Act.
2. Protection of Non-Confidential Information. As permitted by section 51.971 of the Texas Education Code, information may be protected from disclosure when it is not confidential if the information is collected or produced as part of an investigation conducted under this policy and disclosing the information would interfere with an ongoing investigation.
3. Authorized Disclosure of Information. Confidential information and information that is protected from disclosure under this policy may be released:
  - a. with the written and signed consent of the individual whose identity would be disclosed;
  - b. to law enforcement agencies or prosecutors;
  - c. to federal and state agencies responsible for investigating sexual harassment, sexual violence, sexual misconduct or retaliation;
  - d. to notify a Complainant and Respondent of the outcome of an investigation, including sanctions imposed for violating this policy;
  - e. to allow the University to take effective protective measures; or
  - f. as required by lawfully issued subpoena or otherwise authorized by law.

False or Bad Faith Reports. Any individual who makes a false or bad faith report under this policy is subject to disciplinary action. A report is not false or made in bad faith simply because an investigation determines the alleged violation did not occur.

Remedial and Interim Measures. The University will take measures to promptly remediate prohibited conduct, including taking appropriate interim measures to ensure the efficient completion of an investigation and resolution of the allegation(s). Interim measures are not disciplinary in nature and must be consistent with other University policies. For students, these measures may include but are not limited to changes in housing and class schedules, issuance of a no-contact directive to one or more students or student organizations, and issuance of a no trespass directive as appropriate.

### Responding to Reports of Sexual Assault.

1. Reviewing Reports. The University shall review all reports of sexual assault and retaliation to determine whether an investigation should be conducted regardless of whether a written complaint is filed. Before initiating an investigation, the victim of the alleged offense (if the person's identity is known), shall be informed that:
  - a. she or he may file a criminal complaint with law enforcement officials at any time;

- b. the University has an obligation to remediate suspected sexual assault and that an investigation may be conducted whether a criminal complaint is filed;
- c. the University can take measures to protect against continued misconduct and retaliation;
- d. voluntary withdrawal of an allegation will not necessarily result in termination of an investigation; and
- e. she or he should contact the System Administration Office of Equity, Diversity and Inclusion or Dean of Students if retaliation is suspected.

A decision not to investigate a report shall be documented in writing and include the reason(s) for not investigating the allegation(s).

2. Investigating Reports. All credible allegations of prohibited conduct shall be investigated. If the Complainant asks that the University not be disclosed or that the complaint not be pursued, the University will take reasonable steps to comply with the request as long as doing so does not prevent the University from responding effectively under this policy. The Complainant will be informed that such a request may limit the University's ability to respond to the report and that anonymity in the resolution process cannot be assured. In determining whether the Complainant's request will be granted, the University will consider:

- a. the seriousness/nature of the allegation;
- b. whether the alleged behavior or conduct presents a threat to individuals other than the person who is making the request;
- c. whether effective measures can be put in place to protect the individual against continued physical or psychological harm or retaliation;
- d. whether delaying an investigation could reasonably result in the destruction or deterioration of potential evidence to corroborate or refute the allegation; and
- e. any other information that has a reasonable bearing on the decision.

The Complainant will be informed, in writing, if the request is not granted and the reason(s) for the decision.

3. Obligation to Participate in Investigations. Individuals are expected to cooperate in investigations conducted under this policy, and any person who knowingly interferes with an investigation is subject to disciplinary sanctions. Interference with an investigation includes, but is not limited to:

- a. attempting to coerce, compel, or prevent an individual from providing information related to the investigation;
- b. removing, destroying, or altering information that relates to the investigation; or
- c. providing false or misleading information in the course of an investigation or encouraging others to do so.

4. Timeline and Notifications. Investigations will be completed within 60 days unless extenuating circumstance occur.

5. Resolution of Complaints of Sexual Assault and Retaliation when the Alleged Offender is a Student. The Office of the Dean of Students is responsible for investigating reports of sexual assault and retaliation when the alleged offender is a student. The Title IX Coordinator shall review all investigations conducted by the Dean of Students before the investigation is completed.
6. Resolution of Complaints of Sexual Assault and Retaliation when the Alleged Offender is not a Student (including a student employee). The System Administration Office of Equity, Diversity and Inclusion is responsible for investigating reports of sexual assault and retaliation when the alleged offender is someone other than a student.
7. General Investigation Procedures. In addition to any specific procedures set out in other University policies, including the Code of Student Conduct as applicable, the following procedures shall be followed in resolving reports of sexual assault:
  - a. The Complainant and Respondent shall receive notice of the allegation(s) and be informed of the status of the review or investigation.
  - b. The Respondent and Complainant shall be given an opportunity to respond to relevant information gathered in the course of the investigation before the investigation is completed. The Complainant must be given an opportunity to respond to relevant information provided by the respondent.
  - c. The Office responsible for conducting the investigation shall prepare a written report setting out its findings and whether the respondent violated this policy, and must consult with the UNT System Office of General Counsel before completing the report of investigation.
  - d. The Complainant and Respondent shall be notified, in writing, of the investigation findings and determination and be provided a summary of the investigation within a reasonable time after the report of investigation is completed, generally not more than five (5) business days after completion. The University may notify other individuals as appropriate.
  - e. For Title IX complaints, Respondents and Complainants may request a review of the investigation findings and determination by the Vice President for Academic Affairs and Student Success or his or her designee. For all other complaints, Respondents found to have violated this policy may request review of the investigation findings and determination by the Associate Vice Chancellor for Human Resources or his or her designee.
  - f. A request for review must be submitted to the reviewing official within five (5) business days from the date of the notice and include the reason(s) for the review and any new information the individual wishes the reviewing official to consider. The decision of the reviewing official regarding the finding and determination is final.

Record Retention. Records created under this policy shall be confidentially maintained in accordance with the University's record retention schedule. In all cases, access to complaint

and investigation records is strictly limited to officials with a direct operational need to know unless otherwise authorized by law.

### Education and Resources.

1. **Campus-Wide Education for Students.** The University shall educate students about the nature, effect and prevention of sexual assault. Education programs shall include information about how to respond to sexual assault on and off campus, the importance of preserving evidence to assist in the successful prosecution of sex crimes, the role a bystander can play in preventing sexual assault, this policy, and resources available to survivors of sexual assault. All students are encouraged to participate in these programs. Student organizations are required to participate in a minimum of one program each semester and are encouraged to make information about crime prevention readily available to their members.
2. **Required Education for Freshman and Transfer Students.** Each entering freshman and student who transfers to an undergraduate degree program must participate in the University of North Texas at Dallas prevention of sexual assault education program before or during the first semester or term in which the student enrolls in the University. In addition to covering the topics described in the subsection above, the program must include information about each component of this policy.
3. **Employee Education and Training.** New employees shall receive training on this policy no later than the 30<sup>th</sup> day after employment. Employees are individually responsible for completing the training described in this paragraph a minimum of every two years.
4. **Enforcement of Training Responsibilities.** An employee who fails to complete education and training as required under this section shall not be eligible for a salary increase of any type during the year in which his or her training expires and is subject to disciplinary action, including termination. In addition, an employee may be denied access to information technology resources, including the use of email, after being out of compliance with training requirements for longer than 30 days.
5. **Policy Awareness and Publication.** This policy shall be published in the student catalog and employee policy manual, and on a University of North Texas at Dallas website dedicated solely to the prevention of sexual assault. Also, this policy may be included in any other publication as determined by the University.
6. **Resources and Services.** Resources and services that can help lessen the trauma of assault and assist with healing can be found at: [Rape, Abuse, and Incest National Network](#). Other resources on the local level include the following:

UNTD Office of Wellness Services 972-338-1779

Rape Crisis Center 972-641-7273

Genesis Women's Center 214-940-2998

Parkland Hospital 214-590-8000

Baylor Hospital of Dallas 214-820-0111

Charlton Methodist Hospital 214-947-7777

### Sanctions and Legal Implications.

Any violation of this policy may result in sanctions. Sanctions imposed for violating this policy must be reported to the System Administration Office of Equity, Diversity and Inclusion, Office of Student Affairs, and/or University of North Texas at Dallas Campus Human Resources.

1. University Imposed Sanctions. Any individual who violates this policy is subject to disciplinary action, including expulsion, or termination of employment or business relationships as applicable.
2. Federal or State Sanctions. Federal or State agencies may impose fines and other sanctions against the University for violating federal or state anti-harassment laws.
3. Civil Action. Individuals may take court action against individuals and the University that could result in financial liability.
4. Criminal Sanctions. Conduct prohibited by this policy may constitute a criminal offense under the Texas Penal Code.

### References and Cross-references.

- [Student Code of Conduct](#)
- [Staff Employee Discipline Policy](#)
- [Employee Grievance Policy](#)
- [Faculty Discipline Policy](#)

Approved: 4/8/16

Effective: Pending review by the UNT System Board of Regents

Revised: