



## Texas Christian University Policy

**Policy Title:** Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation

**Policy Subject:** Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation

**Division:** The Office of Institutional Equity (OIE)

**Policy Number:** 1.008

### I. Applicability

This policy replaces relevant parts of its predecessor, TCU's [Policy on Prohibited Discrimination Harassment and Related Conduct](#) (Prior Policy). The Prior Policy still applies when resolving reports where the alleged misconduct occurred up to and including August 13, 2020. This policy applies to reports of potential misconduct where the alleged misconduct occurred on or after August 14, 2020.

#### A. Individuals Covered by this Policy

This policy applies to the following members of the TCU community: students (as defined in the [Code of Student Conduct](#)); employees and administrators; trustees; third-party consultants, vendors and contractors when they are doing business with TCU; individuals who perform services for TCU as volunteers; and visitors, guests and other third parties under circumstances within TCU's control. Any employee or student who engages in conduct prohibited by this policy may be subject to disciplinary action and sanctions up to and including termination or expulsion from the University. TCU will take steps to prevent retaliation against anyone making a good faith report and to prevent the recurrence of any harassment and to correct its potential discriminatory effects on a complainant and, if applicable, the TCU community.

#### B. Jurisdiction

This policy applies to conduct that takes place:

- On the campus or TCU premises;
- In the context of any TCU-related or sponsored education program or activity, regardless of location;
- Through the use of TCU-owned or provided technology resources; or
- Off-campus when the conduct is likely to have an adverse effect on TCU and/or the pursuit of its objectives, members of the TCU community, or is likely to create, continue or contribute to a hostile environment.

### II. Policy Statement and Purpose

Texas Christian University (TCU) is committed to providing a positive learning, living and working environment free from discrimination and harassment. In support

of this commitment, in this policy TCU prohibits a range of behaviors, including unlawful discrimination, harassment, and related sexual and other misconduct based on age, race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ethnic origin, disability, predisposing genetic information, covered veteran status, and any other basis protected by law, except as permitted by law. TCU also prohibits retaliation against an individual for making a good faith report under this policy, for participating in proceedings under this policy, or for opposing in a reasonable manner conduct believed to be prohibited by this policy.

This policy is a part of TCU's framework of efforts to comply with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in the University's programs and activities and retaliation; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA); Title VII of the Civil Rights Act of 1964 (Title VII); Title VI of the Civil Rights Act of 1964 (Title VI); Chapter 21 of the Texas Labor Code; the Age Discrimination Act of 1967, the Americans with Disabilities Act (ADA) and the ADA Amendments of 2008, Sections 503 and 504 of the Rehabilitation Act of 1973 (Section 504), the Genetic Information Non-Discrimination Act of 2008 (GNA), Executive Order 11246, Vietnam Veteran's Readjustment Assistance Act of 1974 and other applicable laws.

### **III. Policy Definitions**

**Consent.** For purposes of this policy, consent to sexual activity is: knowing, active, and voluntary permission among participants, clearly expressed by words or actions, to engage in mutually agreed upon sexual activity. Consent cannot be obtained through force, threat of force, or by taking advantage of another person's incapacitation.

### **IV. Policy**

TCU prohibits the following conduct:

- A. Discrimination:** The unlawful treatment of an individual based on the individual's age, race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ethnic origin, disability, predisposing genetic information, covered veteran status, and any other basis protected by law that unreasonably interferes with or limits an individual's ability to participate in or to realize the intended benefits of an institutional activity, employment, receipt of reasonable accommodations or other resource.
- B. Harassment:** A form of discrimination that is unwelcome verbal or physical conduct based on an individual's age, race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ethnic origin, disability, predisposing genetic information, covered veteran status, and any other basis protected by law, when (a) submitting to or enduring such unreasonable conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any TCU program, activity, or benefit, (b)

submission to or rejection of such unreasonable conduct is used, implicitly or explicitly, as the basis for decisions affecting an individual's education (e.g., admission, academic standing, grades, assignment); employment (e.g., hiring, advancement, assignment); or participation in a TCU program, activity or benefit, (c) in the employment context, such conduct if repeated would unreasonably interfere with a person's work performance or create an intimidating, hostile, or offensive work environment, or (d) in the education context, such conduct if repeated would be sufficiently severe, persistent, or pervasive that the conduct would unreasonably interfere with the student's ability to participate in or benefit from educational programs or activities at TCU. For purposes of this section, for conduct to be considered "unreasonable" or to be considered conduct that would "unreasonably interfere" with a person's activities, the conduct must be more than subjectively offensive or harmful; the conduct must be objectively offensive, or offensive to a reasonable person of similar identity.

**C. Sexual Harassment:** Conduct on the basis of sex that satisfies one or more of the following:

1. A TCU employee conditioning the provision of an aid, benefit, or service of TCU on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct that a reasonable person would consider so severe, pervasive and objectively offensive that it effectively denies a person equal access to TCU's educational programs or activities;
3. **Sexual Assault:** any sexual act directed against another person without their consent, including instances where the person is incapable of giving consent. **Sexual Assault** includes:
  - a. **Non-Consensual Sexual Contact:**<sup>1</sup> For purposes of this policy, it is the touching of another person's breasts, buttocks, groin, genital, or other intimate parts for the purpose of sexual gratification without consent. Touching may be over or under clothing and may include the touching another, one person forcing another to touch them or to touch another person, or one person making another touch their own body.
  - b. **Non-Consensual Sexual Intercourse:**<sup>2</sup> For purposes of this policy, it is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or the oral penetration by a sex organ of another person, without consent. This includes: Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact).
  - c. **Incest:**<sup>3</sup> Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. **Statutory Rape:**<sup>4</sup> Sexual intercourse with a person who is under the statutory age of consent.

---

<sup>1</sup> See [34 CFR 668.46\(a\)](#) for the source of this definition.

<sup>2</sup> See [34 CFR 668.46\(a\)](#) for the source of this definition.

<sup>3</sup> See [34 CFR 668.46\(a\)](#) for the source of this definition.

<sup>4</sup> See [34 CFR 668.46\(a\)](#) for the source of this definition.

4. **Dating Violence:**<sup>5</sup> For purposes of this policy, it is violence, including but not limited to sexual or physical abuse or threat of such abuse, which occurs between individuals who are or has been in a social relationship of a romantic or intimate nature. In determining the existence of such a relationship, consideration will be given to the length and the type of relationship and the frequency of interaction between the persons involved in the relationship. Dating violence does not include acts covered under the definition of domestic violence.
5. **Domestic Violence:**<sup>6</sup> For purposes of this policy, it is a felony or misdemeanor crime of violence committed:
  - by a person against their current or former spouse or intimate partner;
  - by one person against another person when the two individuals share a child in common;
  - by one person against another person with whom they have or has cohabitated with as a spouse or intimate partner;
  - by a person, similarly situated to a spouse of the person against whom the violence was directed, under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
  - by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
6. **Stalking:**<sup>7</sup> For purposes of this policy, it is engaging in a course of conduct directed at a specific person which would cause a reasonable person (under similar circumstances and with similar identities to (1) fear for their safety or the safety of others or (2) suffer significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. For purposes of this definition, a "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Examples can include, but are not limited to, threats of harm to self, others, or property; pursuing or following a person; non-consensual (unwanted) communication by any means; sending unwanted gifts; trespassing; and surveillance or other related types of observation. Stalking also includes cyber-stalking through electronic media, like the internet, social networks, blogs, cell phones, or text messages.

---

<sup>5</sup> See [34 CFR 668.46\(a\)](#) for the source of definition. For the definition of dating violence under the Texas Family Code, see [Texas Family Code, §71.0021](#).

<sup>6</sup> See [34 CFR 668.46\(a\)](#) for the source of this definition. Texas statutes do not define domestic violence. For the definition of family violence under the Texas Family Code, see [Texas Family Code, §71.004](#).

<sup>7</sup> See [34 CFR 668.46\(a\)](#) for definition of stalking. For the definition of stalking under the Texas Penal Code, see [Texas Penal Code, §42.072](#).

- D. Sexual Exploitation:** Purposely or knowingly doing any of the following:
1. Observing and/or watching other(s) engaged in intimate behaviors including, but not limited to, undressing, sexual activity, using the bathroom, bathing, or other actions usually considered to be of a private nature, without the other person's knowledge or consent (often referred to as voyeurism);
  2. Recording, photographing, transmitting, showing, viewing, streaming, or distributing pictures, video or audio of another person in a sexual act or in any other intimate/private activity without the knowledge and consent of all persons involved in the activity;
  3. Exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent.
  4. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection;
  5. Administering alcohol or drugs (such as "date rape" drugs) to another person without their knowledge or consent; or
  6. Exposing one's genitals in non-consensual circumstances.
- E. Bullying:** Any verbal, nonverbal, graphic, and/or physical behavior that intimidates and/or intentionally hurts, controls and/or diminishes another person physically, emotionally and/or mentally on the basis of their membership in a protected class enumerated in this policy. This may include behavior occurring in person and/or via electronic communication.
- F. Complicity:** Any act that knowingly aids, facilitates, promotes, or encourages another person to engage in conduct that violates this policy.
- G. Retaliation:** Action taken against any person because the individual filed a good faith report or formal complaint alleging conduct of the type prohibited by this policy or because the individual has testified, assisted or otherwise participated in an investigation of conduct of the type prohibited by this policy or in related proceedings. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats, acts of intimidation, other acts of harassment or discrimination. Retaliation is a separate and distinct violation under the policy and the law. Any person found to have violated this policy of non-retaliation is subject to disciplinary action up to and including termination or expulsion.

## **Duty To Report.**

### **A. All Community Members**

1. It is the responsibility of each community member to promptly report violations or concerns about violations of laws, regulations and University policies that come to their attention.
2. Employees have a mandatory duty to report to the Office of Institutional Equity (OIE) any violations related to the prohibitions enumerated in this policy. Failure

to do so may result in disciplinary action, up to and including termination, and/or civil and criminal charges in some circumstances. **Under Texas law, if an employee learns of incidents of Sexual Harassment or Harassment that is based on sex and fails to timely report the incident to TCU's Title IX Coordinator or to a Deputy Title IX Coordinator, Texas law may require TCU to terminate the employee, and the employee may be subject to criminal prosecution.**<sup>8</sup>

## **B. Special Duty to Report**

1. Individuals in positions of authority who hold a supervisory position at the University have a special duty to report alleged violations of this policy. Therefore, when a supervisor receives a report of conduct that may violate this policy or has reason to believe that a violation of this policy has occurred, the supervisor has a mandatory duty to contact the Office of Institutional Equity ("OIE") and report the conduct or possible occurrence.
2. An individual in position of authority who is made aware of, or in the exercise of reasonable care should have known of, a violation of this policy by a person under their authority or supervision and fails to take appropriate action is subject to disciplinary action and may be subject to legal action.

**C. Exceptions.** Individuals who are considered Confidential Resources are exempt from this obligation when they receive information in the context of providing professional services to a student. For purposes of this policy, Confidential Resources are University officials who can maintain legally-protected confidentiality within the University for the individual who shared the information. The following University employees serve as TCU's Confidential Resources: licensed mental health professionals at the Counseling Center; licensed medical professionals at the Health Center; TCU Title IX Confidential Advocate(s); and ordained University Chaplains in the Office of Religious and Spiritual Life. Licensed physicians on TCU's Sports Medicine staff are also Confidential Resources for student-athletes when they receive information in the context of providing professional services.

## **False Information and Complaints.**

- A. False Information** - Providing false information or hindering a University investigation are prohibited and can result in disciplinary action up to and including termination or expulsion.
- B. False Complaints** - Any person who knowingly and intentionally files a false complaint or files a claim in bad faith under this policy is subject to disciplinary action up to and including dismissal from the University.

## **V. Enforcement**

Any employee or student who engages in conduct prohibited by this policy may be subject to disciplinary action and sanctions up to and including termination or

---

<sup>8</sup> See [Texas Senate Bill 212](#) for information on reporting requirements.

expulsion from the University. TCU will take steps to prevent retaliation against anyone making a good faith report and to prevent the recurrence of any harassment and to correct its potential discriminatory effects on a complainant and, if applicable, the TCU community.

**VI. Administrative Responsibility**

The Office of Institutional Equity is responsible for administering and interpreting this policy.

**VII. Policy History**

Issued: 08/24/2020

Date Last Revised: N/A

**VIII. Related Policies and Information**

In addition to this policy, the conduct of students, employees and other TCU community members may be governed by other TCU policies, including but not limited to:

- [Handbook for Texas Christian University Faculty and Staff](#)
- [Policy 2.070 Code of Conduct for Employees](#)
- [Policy 1.006 Consensual Relationships](#)
- [Code of Student Conduct](#)
- [Policies and Procedures for Students with Disabilities](#)
- [Student Handbook](#)
- [Responding to Reports of Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation](#) (for conduct occurring after August 13, 2020)
- [Policy on Prohibited Discrimination, Retaliation, and Related Conduct](#) (for conduct occurring before August 14, 2020)
- [TCU Annual Notification of Rights under Family Educational Rights and Privacy Act](#)

**Additional information regarding discrimination, harassment, sexual misconduct, and retaliation.**

Additional information about illegal discrimination, harassment, sexual misconduct, and retaliation may also be obtained from the U.S. Department of Education or U.S. Equal Employment Opportunity Commission office listed below:

|                               |  |
|-------------------------------|--|
| U.S. Department of Education  | U.S. Equal Employment Opportunity Commission |
| Dallas Office                 | Dallas Office                                |
| Office for Civil Rights       | 207 S. Houston St., 3 <sup>rd</sup> Floor    |
| U.S. Department of Education  | Dallas, TX 75202                             |
| 1999 Bryan Street, Suite 1620 | Tele: 1-800-669-4000                         |
| Dallas, Texas 75201-6810      | Fax: 214-253-2720                            |

|  |  |
|--|--|
| Tele: 214/661-9600 or 800-421-3481                       | TTY: 1-800-669-6820                            |
| FAX: 214/661-9587; TDD: 800-877-8339                     | <a href="http://www.eeoc.gov">www.eeoc.gov</a> |
| <a href="mailto:OCR.Dallas@ed.gov">OCR.Dallas@ed.gov</a> |  |

### **Other University Units and Resources**

Contact information for other University units and resources mentioned in this policy may be found below:

- Office of Institutional Equity  
The Harrison 1800  
817-257-8228  
[TitleIX@tcu.edu](mailto:TitleIX@tcu.edu)
- Ms. Sharon F. Gooding, Director  
Office of Institutional Equity  
The Harrison 1802  
817-257-4748  
[s.gooding@tcu.edu](mailto:s.gooding@tcu.edu)
- Ms. Andrea Vircks, Title IX Coordinator  
The Harrison 1803  
817-257-4969  
[a.vircks@tcu.edu](mailto:a.vircks@tcu.edu)
- Campus Life – Dean’s Office  
Sadler Hall, Suite 2006  
817-257-7926
- Dr. Mike Russel, Assoc. Vice Chancellor for Student Affairs & Dean of Campus Life  
Sadler Hall, Suite 2006  
817-257-7926  
[m.russel@tcu.edu](mailto:m.russel@tcu.edu)
- Ms. Andrea Nordmann, Chief University Compliance Officer  
The Harrison 3209  
817-257-5520  
[a.nordmann@tcu.edu](mailto:a.nordmann@tcu.edu) or [askcompliance@tcu.edu](mailto:askcompliance@tcu.edu)
- Ms. Yohna Chambers, Vice Chancellor and Chief Human Resources Officer  
2701 W. Berry St. Fort Worth TX 76129  
817-257-5103  
[y.chambers@tcu.edu](mailto:y.chambers@tcu.edu)



**Resources for Complainants and Respondents**

Resources for Complainants and Respondents, including for survivors of Sexual Assault or other sexual misconduct may be found below:

| <b>On Campus</b>   | <b>Off Campus Community Resources</b>   |
|--|---|
| TCU Police<br>3025 Lubbock Ave.<br>Fort Worth TX 76129<br>817-257-7777   | Fort Worth Policy<br><br>817-335-4222   |
| Counseling & Mental Health Center<br>Lower Level Samuelson Hall<br>817-257-7863<br>817-257-7233 (24/7 Hotline)<br>www.counseling.tcu.edu | Women’s Center of Tarrant County<br>1723 Hemphill Street<br>Fort Worth TX 76110<br>817-927-2737 |
| TCU Confidential Advocate<br>Leah Carnahan<br>817-257-5225<br>l.carnahan@tcu.edu   | John Peter Smith Hospital<br>1500 S. Main<br>Fort Worth TX 76104<br>817-702-3431                |
| TCU Campus Life – Dean of Students<br>TCU Box 297010<br>Sadler Hall 2006<br>Fort Worth TX 76129<br>817-257-7926                          |   |

**IX. Appendix**

There are no appendices in this policy.

**X. Approved By and Approval Date**

Approved by Chancellor: August 24, 2020.



## Texas Christian University Policy

**Policy Title:** Responding to Reports of Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation

**Policy Subject:** Responding to Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation

**Division:** The Office of Institutional Equity (OIE)

**Policy Number:** 1.009

### I. Applicability

This policy applies to any report that a member of the TCU community has been the target of alleged misconduct or has allegedly engaged in misconduct that may violate the University's policy on [Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation](#). This policy replaces, in relevant part, TCU's [Policy on Prohibited Discrimination Harassment and Related Conduct](#) (Prior Policy). The Prior Policy still applies when resolving reports where the alleged misconduct occurred up to and including August 13, 2020. This policy applies to reports of potential misconduct where the alleged misconduct occurred on or after August 14, 2020.

#### **Scope of Policy – Individuals Covered.**

This policy applies to the following members of the TCU community: students (as defined in the [Code of Student Conduct](#)); employees; trustees; third-party consultants, vendors and contractors when they are doing business with TCU; individuals who perform services for TCU as volunteers; and visitors, guests and other third parties under circumstances within TCU's control.

### II. Policy Statement and Purpose

Texas Christian University (TCU) is committed to providing a positive learning, living, and working environment free from unlawful discrimination, harassment, and sexual misconduct. In support of this commitment, in its policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation, TCU has prohibited a range of behaviors, including unlawful discrimination and harassment and related sexual and other misconduct based on age, race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, national origin, ethnic origin, disability, predisposing genetic information, covered veteran status, and any other basis protected by law. See TCU's policy on [Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation](#).

The purpose of this policy is to outline the process for responding to reports that a member of the TCU community may have been the target of or may have violated

TCU's policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation.

This policy is a part of TCU's framework of efforts to comply with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in the University's programs and activities and retaliation; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA); Title VII of the Civil Rights Act of 1964 (Title VII); Title VI of the Civil Rights Act of 1964 (Title VI); Chapter 21 of the Texas Labor Code; the Age Discrimination Act of 1967, the Americans with Disabilities Act (ADA) and the ADA Amendments of 2008, Sections 503 and 504 of the Rehabilitation Act of 1973 (Section 504), the Genetic Information Non-Discrimination Act of 2008 (GNA), Executive Order 11246, Vietnam Veteran's Readjustment Assistance Act of 1974 and other applicable laws.

### **III. Policy Definitions**

- A. Complainant:** Individual who, based on the information in a Report or information gathered by the Office of Institutional Equity (OIE) during an Initial Inquiry, may have been the target of conduct that may have violated the University policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation.
- B. Complaint:** A written statement of the factual allegations against a Respondent, including a narrative describing the alleged misconduct, the identities of the parties involved in the incident, if known; the behavior and/or actions allegedly constituting the misconduct; and the date and location of the alleged incident, if known.
- C. Formal Resolution:** The resolution of a Complaint through an Investigation culminating in a dismissal (with appeal rights) or in the issuance of an Investigative Report provided to the appropriate University offices for further action.
- D. Initial Inquiry:** The initial review of a Report by the OIE to determine next steps.
- E. Interim Measures:** Upon receiving a Report and throughout the process of resolving a Report and/or Complaint, the OIE will determine as appropriate and necessary any measures to be implemented or recommended during the resolution process. These measures may be supportive, remedial (measures designed to maintain continued access to educational programs and activities) or protective.
- F. Investigation:** A formal investigation of a Complaint by an investigator designated by the OIE, including meeting with the complainant(s), named respondent(s), and any applicable witnesses, concluding in a dismissal or in an Investigative Report.
- G. Office of Institutional Equity ("OIE"):** The University unit tasked with responding to Reports on behalf of the TCU community.
- H. Preponderance of the Evidence:** The standard of evidence used in all determinations whether a respondent violated TCU's policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation. The standard is based on all the available, probative information and its probable truth or accuracy in relation to a determination regarding a policy violation. Under this standard, a Respondent would be found in violation if, based on the information available, the

- factfinder concludes it is more likely than not that the Respondent violated the policy.
- I. Report:** Information provided to the OIE that a member of the TCU community may have committed misconduct or may have been the target of misconduct that may violate TCU's policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation.
  - J. Respondent:** Individual who has been reported as having committed acts that may have violated TCU's policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation.
  - K. Sexual Harassment:** For purposes of this policy, "Sexual Harassment" has the meaning set forth in TCU's policy on [Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation](#).
  - L. Voluntary Informal Resolution:** A voluntary, informal resolution process (*e.g.*, mediation, restorative justice) that the Complainant, Respondent, and OIE agree to undertake in an effort to resolve a Complaint.

#### **IV. Policy**

##### **Initial Inquiry**

##### **A. Receipt of a Report**

Upon receipt of a Report of a possible violation of TCU's policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation, the OIE will make an Initial Inquiry to determine what actions should be taken based on the Report, including whether Interim Measures are appropriate; and the next steps for resolving the Report, including whether the Complainant, if any, or the OIE will submit a written Complaint and proceed to an Investigation.

##### **B. Initial Inquiry Process**

As part of the Initial Inquiry, the OIE will: contact the person who reported the conduct, if appropriate; contact the Complainant, if any; assess the nature of the Report; address immediate needs of the Complainant and the campus community; implement or recommend Interim Measures, as appropriate; discuss available options for resolution with the Complainant; provide the Complainant with information about resources both on and off campus; and assess for pattern evidence or other similar conduct by the Respondent. This assessment will continue until the OIE has sufficient information to determine an appropriate course of action to resolve the Report. In some instances, the OIE will engage in limited fact-finding to gain a better understanding of the context of the Report or take other appropriate steps, including contacting the Respondent and consulting with other TCU units that may have relevant information (*e.g.*, TCU's Threat Assessment Team, the TCU Police Department, Office of Campus Life, and/or Human Resources, etc...).

### **C. Formal Complaints**

During the Initial Inquiry, the OIE will determine if the Complainant wishes to submit a written Complaint. When a Complainant requests anonymity or does not choose to submit a written Complaint and participate in any Informal or Formal Resolution Process to resolve a Report, the OIE will consider this request in the context of TCU's responsibility to provide a safe and non-discriminatory environment for all members of the TCU community. TCU's ability to respond fully to or investigate a Report may be limited if the Complainant requests anonymity or declines to submit a Complaint or participate in an Investigation or resolution process. A Complainant who initially requests anonymity or declines to submit a Complaint can always change their mind and request to pursue a resolution through submitting a Complaint.

Even if the Complainant does not wish to submit a Complaint, the OIE may elect to submit a Complaint based on the information in the Report or information gathered during the Initial Inquiry. If the OIE elects to submit a written Complaint, it shall timely inform the Complainant it has elected to do so. The OIE may consolidate Complaints where appropriate and necessary.

### **D. Conclusion of Initial Inquiry**

The submission of a Complaint concludes the Initial Inquiry. If no Complaint is submitted by the Complainant or the OIE, the OIE may also conclude an Initial Inquiry by: 1) determining that no further action is necessary; or 2) that the matter has been resolved without the submission of a Complaint. If the Report includes information that may violate other University policies or standards, the OIE may also refer the matter to another TCU office for further action. Ordinarily, the OIE should complete an Initial Inquiry within fifteen (15) calendar days of receiving a Report. If the Report involves a Complainant, the OIE will inform the Complainant of the outcome of the Initial Inquiry. If in the process of conducting an Initial Inquiry the Respondent was made aware of the Report, the OIE may also inform the Respondent that the Initial Inquiry has been concluded without further action.

### **Investigation and the Formal Resolution of a Complaint.**

If the Complainant or the OIE submits a Complaint, the OIE will assign an investigator(s) to conduct the Investigation, and the investigator may be a TCU employee or an independent contractor retained by the OIE to conduct the Investigation. The investigator may be the same person who conducted the Initial Inquiry. In the Investigation and formal resolution of any Complaint, the Respondent is presumed not responsible for the conduct alleged in the Complaint, with any determination concerning responsibility made at the conclusion of the Formal Resolution process, including any hearing or other process afforded to student respondents under the Code of Student Conduct or afforded to any employee respondents under applicable TCU policies.

### **A. Notice of Investigation**

Within three (3) business days of receiving a Complaint, the OIE will provide the Complainant and Respondent a Notice of Investigation that includes:

- the identities of the parties involved in the incident, if known;
- the behavior and/or actions allegedly constituting the misconduct and the specific potential policy violation(s);
- the date and location of the alleged incident(s), if known;
- a description of any Interim Measures in place that may impact the parties;
- the availability of Interim Measures;
- notice to the parties that each may have an advisor of their choice present at any and all meetings or proceedings;
- notice that providing false statements or submitting false information is prohibited by TCU policies;
- notice that the parties may request to review information gathered during the Formal Resolution process;
- notice that retaliatory behavior will not be tolerated;
- notice that the Respondent is presumed not responsible for any conduct alleged in the Complaint, and that no determination of responsibility will be made until the conclusion of the Formal Resolution and related processes; and
- an electronic copy of this policy as it provides an explanation of the Investigation and Formal Resolution process.

If in the course of an Investigation the OIE discovers additional conduct that may violate TCU's policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation, relevant parties will be notified of any additional allegations to be included in the Investigation. If in the course of the Investigation the OIE discovers possible violations of other TCU policies, the OIE will notify the appropriate office for possible additional actions.

### **B. Dismissal of Complaint**

During the Investigation, the OIE may dismiss the Complaint if the Investigator determines that the facts alleged in the Complaint, even if true, would not violate TCU's policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation or if the Investigator determines that even if the facts alleged in the Complaint are true, the alleged Respondent is not a TCU community member over whom TCU can exercise authority. This dismissal does not preclude the OIE taking other steps to address information in a Complaint or preclude TCU from taking action under another university policy. The Complaint may be referred to another department for resolution under a separate provision of the University's code of conduct for employees or students (*e.g.*, Campus Life, Human Resources).

### **C. Appeal of Dismissal**

Upon dismissal of a Complaint, the OIE will send written notice of dismissal and reason(s) for dismissal to the parties within (3) business days. Parties are provided with an opportunity to appeal this dismissal, in writing to the University's Chief Compliance Officer, within five (5) business days of receiving notice of the Complaint's dismissal.

Both parties may appeal dismissal of the Complaint or of any allegations on the following bases: a) a procedural irregularity; b) new evidence that was not reasonably available at the time of the dismissal; c) the dismissal was clearly wrong based on a plain reading of the Complaint and the TCU policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation; or d) the investigator(s) or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents or against the individual Complainant or Respondent that affected the outcome of the matter.

### **D. Investigation Process**

As a part of the Investigation, the investigator(s) will attempt to meet or communicate separately with the Complainant, Respondent, and relevant witnesses. The investigator(s) may also consult with other University other TCU units that may have relevant information (*e.g.*, TCU's Threat Assessment Team, the TCU Police Department, Office of Campus Life, and/or Human Resources, etc...). The parties may each consult with a collegial or professional support person/advisor (see below) who may accompany them to the interview with the investigator(s). In general, a person's medical and counseling records are confidential and not accessible to the investigator(s) unless the person voluntarily chooses to share those records with the investigator(s). In those instances, the relevant information from the records will be shared with the other party. The investigator(s) may also consider information publicly available from social media or other online sources that comes to the attention of the investigator(s). The investigator(s) may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed.

The investigator(s) will also provide an equal opportunity for all parties to identify witnesses for the investigator(s) to interview, to provide the investigator(s) information from such witnesses, including fact and expert witnesses, and to provide other relevant information to the investigator(s). The investigator(s) may consider any evidence determined to be relevant and credible by the investigator(s), including history and pattern evidence. Generally, information considered relevant by the investigator(s) will be provided to the parties for their review and comment, as described in this policy. The investigator(s) may address any evidentiary concerns of the parties, may exclude irrelevant or immaterial evidence, and may disregard

evidence lacking in credibility or that is more prejudicial than probative (the probative value is outweighed by a danger of unfair prejudice, confusing the issues, misleading the factfinder, undue delay, wasting time, or needlessly presenting cumulative evidence). The investigator(s) will not consider polygraph test results.

#### **E. Investigation Timeline**

Ordinarily, within forty-five (45) calendar days of the submission of a Complaint, the investigator(s) will prepare a summary of the information gathered and considered by the investigator(s), including a summary of the information provided by the witnesses and a list of any documents or other any materials considered. This summary will not include any preliminary investigative finding (i.e., determination of responsibility).

The investigator will provide access to the Complainant, if any, and to the Respondent and their respective advisors to the summary and any documents or other relevant materials considered by the investigator(s). For cases of Sexual Harassment, such access will be provided to the parties and advisors in electronic format or they will be provided hard copies. The parties will have ten (10) calendar days to submit a written response which the investigator(s) will consider prior to the completion of the Investigative Report.

#### **F. Conclusion of Investigation**

The investigator(s) will complete the Investigative Report within seven (7) calendar days after receipt of the parties' comments or additional information following their review of the summary. This time period may be extended if significant additional investigative steps are required based on the comments or additional information provided by the parties.

#### **G. Enhanced Processes and Formal Resolution**

**Enhanced process required to resolve certain Complaints.** Under applicable federal Title IX regulations that take effect and apply to some conduct occurring on or after August 14, 2020 by the United States Department of Education<sup>1</sup> ([2020 Title IX Regulations](#)), the resolution of Complaints involving allegations of Sexual Harassment<sup>2</sup> requires a hearing with certain enhanced processes as prescribed by the regulations. In any Investigative Report, the Investigator will include a determination of whether 2020 Title IX Regulations would require a hearing with enhanced processes to resolve one or more of the allegations in the Complaint. TCU reserves the right to take action without a resolution through a hearing with enhanced processes prescribed by federal 2020 Title IX Regulations if TCU concludes it has a

---

<sup>1</sup> [\[Title IX Regulations Addressing Sexual Harassment\]](#)

<sup>2</sup> For TCU's definitions of Sexual Harassment, see TCU's policy on [Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation](#).



legal duty to do so.

**Formal Resolution where the Respondent is a student.** If the Complaint involves a Respondent(s) who primarily relates to the University as a student, the Investigative Report will not include any investigative findings or determination of responsibility, and the OIE will deliver the Investigative Report to the Office of Campus Life – Dean’s Office for determination of responsibility and appropriate sanctions and/or remedies. In making such determinations, the Campus Life – Dean’s Office will follow applicable student conduct procedures set forth in the TCU Code of Student Conduct, including providing for a hearing with enhanced processes if required to do so by federal Title IX regulations. If the student is also an employee at TCU, any determination of responsibility may also be shared with Human Resources to determine if any personnel action is appropriate. When the OIE provides the Investigative Report to the Office of Campus Life – Dean’s Office, the OIE will provide the Complainant and Respondent notice that the matter has been transferred to the Office of Campus Life – Dean’s Office for determination of responsibility and appropriate sanctions and/or remedies.

**Formal Resolution where the Respondent is not a student.** If the Complaint involves a Respondent(s) who does not primarily relate to the University as a student, the Investigative Report will ordinarily include a determination of responsibility by the investigator(s) based on the Preponderance of the Evidence, and the Investigative Report will recommend appropriate sanctions and/or remedies, if any. Where the Respondent is an employee (i.e., faculty or staff or temporary employee), the OIE will provide Human Resources and the appropriate management the Investigative Report. At the same time, the OIE will provide the Complainant and Respondent with a Notice of Outcome describing any determination of responsibility. The Office of Human Resources will work with management to determine and implement disciplinary actions and/or remedies, if any. Nothing in this policy replaces or supplants any process that may apply to an employee sanction under other applicable TCU employment policies, including policies with respect to faculty and/or tenure. Where the Respondent is neither an employee nor a student, the OIE will provide the Investigative Report to the University unit most responsible for the contractual or other relationship with the Respondent for further action.

**Hearing with enhanced processes where the Respondent is an employee.** If the Complaint includes an allegation of Sexual Harassment, the Respondent is an employee, and the Complainant is a student and not an employee, then TCU’s federal legal duties to resolve the allegation arise primarily under [Title IX of the Education Amendments of 1972](#). In that case, for any allegations in the Complaint involving Sexual Harassment, the Investigative Report shall not include a determination of responsibility or recommend appropriate sanctions or remedies. Responsibility and sanctions will be determined through a hearing with enhanced processes as required by the 2020 Title IX Regulations. TCU reserves the right to take action without a hearing with enhanced processes prescribed by the 2020 Title IX Regulations if TCU concludes it has a legal duty to do so.

**Sanctions or remedies monitored by OIE and TCU's Title IX Coordinator.** Any remedial measure or sanctions imposed or implemented through the student judicial process (for Respondents who are students) or through Human Resources or management (for respondents who are employees) shall be reported to OIE and, if appropriate, to TCU's Title IX Coordinator so they may monitor such remedial measure or sanctions as required by federal law.

**Voluntary Informal Resolution.**

At any time after a Complaint has been submitted and before the completion of the Formal Resolution of a Complaint, the Complainant or Respondent may request that the parties attempt to resolve the Complaint through Voluntary Informal Resolution. The OIE will consider the request if the other party agrees. Either party participating in a Voluntary Informal Resolution may end the informal process at any time and request to resume the Investigation and Formal Resolution.

If the Voluntary Informal Resolution is unsuccessful or fails to adequately address the alleged misconduct and protect the campus community, the Investigator may elect to resume the Investigation and Formal Resolution of the Complaint. A Voluntary Informal Resolution may not be appropriate for Complaints involving Sexual Harassment, including sexual assault, stalking, and dating violence and domestic violence.

**Interim Measures.**

Upon receipt of a Report or at any time during Initial Inquiry, Investigation and Formal Resolution or Voluntary Informal Resolution, TCU may provide reasonable and appropriate Interim Measures designed to preserve a party's educational or work experience; protect all parties during an investigation; address safety concerns for the broader TCU community; maintain the integrity of the investigative and/or resolution process; deter retaliation; and/or any other reason deemed appropriate or necessary by the OIE. These measures may be supportive, remedial (measures designed to maintain continued access to educational programs and activities) or protective. During the Initial Inquiry, the OIE will inform the Complainant of the availability of Interim Measures. Similarly, any Notice of Investigation to the Respondent shall include information about the availability of Interim Measures. Interim Measures may include but are not limited to: counselling; modifications of work or class schedules; changes in work or housing locations; and transportation accommodations [*e.g.*, campus escort(s)]. The OIE will consider the Complainant's and Respondent's requests regarding Interim Measures. Interim Measures are equally available to both the Complainant and Respondent.

Interim Measures are not designed to be punitive or to materially interfere with a party's access to a living, learning, or working environment. If the OIE determines that for the safety of a party or the community or to prevent further violations of TCU policy the University needs to implement Interim Measures that materially and adversely impact a party's activities as an employee or as a student (*e.g.*, interim suspension for a student or administrative leave for an employee), the determination

on any such Interim Measure will be made by the Associate Vice Chancellor for Student Affairs & Dean of Campus Life (for students) or the Vice Chancellor and Chief Human Resources Officer (for employees) or their designees. In implementing any such Interim Measure, the University will comply with any policies and processes that may apply to such interim action.

### **Additional Information.**

#### **A. Expectations of Honesty and Candor**

All TCU community members are expected to provide truthful information in any Report, Investigation or proceeding under this policy. Consistent with TCU's [Code of Student Conduct, Section 3.2.6 Dishonest Conduct, the Code of Conduct for Employees, Policy 2.070, Section IV.\(e\)](#), and under TCU's policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation, submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another is prohibited and subject to disciplinary sanctions. Reports made or information provided in good faith would not violate applicable TCU policies requiring truthfulness, even if the facts reported in the Report are not later substantiated or no policy violation is found to have occurred.

#### **B. Advisors**

Both the Complainant and Respondent are allowed to have an advisor of their choice present with them for all meetings and proceedings under this policy to which the party is entitled to be present, including during the Initial Inquiry and Investigation.

The University may establish restrictions that apply equally to all parties regarding the extent to which the advisor may participate in the proceedings. During any stage of the process, including during the Investigation, the advisor may provide support and advice to the parties at any meeting and/or proceeding. They may not speak on behalf of the parties, make any type of argument or presentation during any meeting or interview at which they are present, or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings.

#### **C. Privacy**

Generally, sharing of information related to a Complaint or Report under this policy will be limited to those individuals who need the information to assist in the assessment, investigation, and resolution of the Report or Complaint and related issues. This may include, but is not limited to: the OIE, TCU Compliance Officers, Division of Student Affairs, Human Resources, TCU Police, and the Threat Assessment Team.

TCU will endeavor to keep the identity of a Complainant and Respondent and information learned in the Initial Inquiry or Investigation private, to the extent allowed by law and except as necessary to investigate or remedy policy violations. TCU will make reasonable efforts to investigate and address Reports or Complaints made under this policy, and information may be disclosed to participants in an Investigation as necessary to facilitate the thoroughness and integrity of the Investigation. In all such proceedings, TCU will take into consideration the privacy of the parties to the extent reasonably possible, but cannot guarantee anonymity for a Complainant where it would conflict with its obligation to investigate meaningfully, take corrective action, comply with the intent of this policy, or fulfill its legal obligations.

Student education records will be protected in accordance with the [Family Educational Rights and Privacy Act](#) (FERPA).

#### **D. Accessibility**

TCU is committed to equity, inclusion, and accessibility in receiving Reports and Complaints and in the process outlined in this policy for the resolution of Reports and Complaints. To ensure an equitable process and to allow full participation of all parties, participants in this process may request accommodations from OIE in the light of any disabilities or because of limited language proficiency. The OIE will work with Human Resources or other appropriate University units to evaluate such requests and to provide reasonable accommodations.

#### **E. Time Frames**

There is no time limit for a Complainant to make a Report or to submit a Complaint under this policy. However, Complainants are encouraged to make a Report as soon as possible to maximize TCU's ability to respond promptly and effectively.

TCU may extend any timeframe in this policy with good cause (*e.g.*, absence of a party, concurrent law enforcement activity, academic calendar, etc...). TCU will immediately notify the parties of any extension and the reason for the extension. While requests for delays by the parties may be considered, TCU cannot guarantee approval of delay requests by either party.

### **V. Enforcement**

Any employee or student who engages in conduct prohibited by this policy may be subject to disciplinary action and sanctions up to and including termination or expulsion from TCU. TCU will take steps to prevent the recurrence of any discrimination, harassment, sexual misconduct, or retaliation and to correct its potential discriminatory effects on a complainant and, if applicable, the TCU community.

**VI. Administrative Responsibility**

The Office of Institutional Equity is responsible for administering and interpreting this policy.

**VII. Policy History**

Issued: 08/24/2020

Date Last Revised: N/A

**VIII. Related Policies and Information**

**A. Related TCU Policies, Laws, and Regulations**

In addition to this policy, the conduct of students, employees and other TCU community members may be governed by other TCU policies, including but not limited to:

- [Handbook for Texas Christian University Faculty and Staff](#)
- [Policy 2.070 Code of Conduct for Employees](#)
- [Policy 1.006 Consensual Relationships](#)
- [Code of Student Conduct](#)
- [Policies and Procedures for Students with Disabilities](#)
- [Student Handbook](#)
- [Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation](#) (for conduct occurring after August 14, 2020)
- [Policy on Prohibited Discrimination, Retaliation, and Related Conduct](#) (for conduct occurring before August 14, 2020)
- [TCU Annual Notification of Rights under Family Educational Rights and Privacy Act](#)
- [Texas State Bill 212](#)
- [Texas House Bill 449](#)
- [Texas House Bill 1735](#)
- [Department of Education 2020 Title IX Regulations](#)

**B. Additional Information Regarding Discrimination, Harassment, Sexual Misconduct, and Retaliation**

Additional information about illegal discrimination, harassment, sexual misconduct, and retaliation may also be obtained from the U.S. Department of Education or U.S. Equal Employment Opportunity Commission office listed below:

|  |  |
|--|--|
| U.S. Department of Education                             | U.S. Equal Employment Opportunity Commission   |
| Dallas Office  | Dallas Office                                  |
| Office for Civil Rights                                  | 207 S. Houston St., 3 <sup>rd</sup> Floor      |
| U.S. Department of Education                             | Dallas, TX 75202                               |
| 1999 Bryan Street, Suite 1620                            | Tele: 1-800-669-4000                           |
| Dallas, Texas 75201-6810                                 | Fax: 214-253-2720                              |
| Tele: 214/661-9600 or 800-421-3481                       | TTY: 1-800-669-6820                            |
| FAX: 214/661-9587; TDD: 800-877-8339                     | <a href="http://www.eeoc.gov">www.eeoc.gov</a> |
| <a href="mailto:OCR.Dallas@ed.gov">OCR.Dallas@ed.gov</a> |  |

### **C. Other University Units and Resources**

Contact information for other University units and resources mentioned in this policy may be found below:

- Office of Institutional Equity  
The Harrison 1800  
817-257-8228  
[TitleIX@tcu.edu](mailto:TitleIX@tcu.edu)
- Ms. Sharon F. Gooding, Director  
Office of Institutional Equity  
The Harrison 1802  
817-257-4748  
[s.gooding@tcu.edu](mailto:s.gooding@tcu.edu)
- Ms. Andrea Vircks, Title IX Coordinator  
The Harrison 1803  
817-257-4969  
[a.vircks@tcu.edu](mailto:a.vircks@tcu.edu)
- Campus Life – Dean’s Office  
Sadler Hall, Suite 2006  
817-257-7926
- Dr. Mike Russel, Assoc. Vice Chancellor for Student Affairs & Dean of Campus Life  
Sadler Hall, Suite 2006  
817-257-7926  
[m.russel@tcu.edu](mailto:m.russel@tcu.edu)
- Ms. Andrea Nordmann, Chief University Compliance Officer  
The Harrison 3209  
817-257-5520  
[a.nordmann@tcu.edu](mailto:a.nordmann@tcu.edu) or [askcompliance@tcu.edu](mailto:askcompliance@tcu.edu)
- Ms. Yohna Chambers, Vice Chancellor and Chief Human Resources Officer  
2701 W. Berry St. Fort Worth TX 76129  
817-257-5103  
[y.chambers@tcu.edu](mailto:y.chambers@tcu.edu)

### **D. Resources for Complainants and Respondents**

Resources for Complainants and Respondents, including for survivors of Sexual Assault or other sexual misconduct may be found below:

| <b>On Campus</b>   | <b>Off Campus Community Resources</b>   |
|--|---|
| TCU Police<br>3025 Lubbock Ave.<br>Fort Worth TX 76129<br>817-257-7777   | Fort Worth Policy<br><br>817-335-4222   |
| Counseling & Mental Health Center<br>Lower Level Samuelson Hall<br>817-257-7863<br>817-257-7233 (24/7 Hotline)<br>www.counseling.tcu.edu | Women's Center of Tarrant County<br>1723 Hemphill Street<br>Fort Worth TX 76110<br>817-927-2737 |
| TCU Confidential Advocate<br>Leah Carnahan<br>817-257-5225<br>l.carnahan@tcu.edu   | John Peter Smith Hospital<br>1500 S. Main<br>Fort Worth TX 76104<br>817-702-3431                |
| TCU Campus Life – Dean of Students<br>TCU Box 297010<br>Sadler Hall 2006<br>Fort Worth TX 76129<br>817-257-7926                          |   |

**IX. Appendix**

There are no appendices in this policy.

**X. Approved By and Approval Date**

Approved by Chancellor: August 24, 2020.