











## **1. Nondiscrimination Policy**

### **A. Policy Statement**

The University of Texas of the Permian Basin is committed to providing an educational, living and working environment that is welcoming, respectful and inclusive of all members of the university community. An environment that is free of discrimination and harassment allows members of the university community to excel in their academic and professional careers. To the extent provided by applicable federal and state law, the University prohibits unlawful discrimination against a person because of their race, color, religion, sex, national origin, age, disability, genetic information, or veteran status. The University's commitment to equal opportunity extends its nondiscrimination protections to include sexual orientation, gender expression and gender identity. Retaliation against a person who files a claim of discrimination, participates in a discrimination investigation or proceeding, or otherwise opposes an unlawful employment practice is prohibited.

### **B. Scope**

This policy applies to visitors, applicants for admission to or employment with the University, and students and employees of the university who allege discrimination by university employees, students, visitors, or contractors. Complaints of full-time faculty who are notified that they will not be reappointed, or that the subsequent academic year will be their terminal appointment, and who contend that such decisions were made for unlawfully discriminatory reasons will be referred to the Office of the Provost and the Vice President for Academic Affairs for handling pursuant to the Rules and Regulations of the Board of Regents of The University of Texas System.

### **C. Definitions**

1. Discrimination 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 because of their race, color, religion, sex, national origin, age, disability, genetic information, veteran status, sexual orientation, gender expression or gender identity.
2. Harassment as a form of discrimination is defined as verbal or physical 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 because of

their race, color, religion, sex, national origin, age, disability, genetic information, veteran status, sexual orientation, gender expression or gender identity 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.

3. Verbal conduct is defined as oral, written, or symbolic expressions that:
  1. Personally describe or is personally directed at a specific individual or group of identifiable individuals; and
  2. Is not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.
  3. Constitutionally protected expression cannot be considered harassment under this policy.

## **Section II. General Procedures**

### **A. Reporting**

A person who believes that he or she has been subjected to discrimination or harassment in violation of this policy should report the incident to any university official, administrator or supervisor. A faculty member is not an "official, administrator, or supervisor" for this purpose unless that faculty member holds an administrative position. Students are encouraged to report such incidents to the Office of the Dean of Students; employees and campus visitors are encouraged to report to the Office of Human Resources. Incidents should be reported as soon as possible after the time of their occurrence, in most cases this will be within thirty (30) calendar days. No person is required to report discrimination or harassment to the alleged offender.

### **B. Reporting Responsibility**

It is the responsibility of every supervisor, administrator and University official to promptly report incidents of discrimination and harassment in violation of this policy that come to their attention. Informal reports are to be made to Office of the Dean of Students or the Office of Human Resources, as appropriate formal reports should be submitted via the Complaint Resolution Portal on the University webpage.

### **C. Resolution Options**

A person who believes that he or she has been subjected to discrimination or harassment in violation of this policy and seeks to take action may use either the informal resolution process or the formal complaint process, or both. The informal resolution and formal complaint process described in this policy are not mutually exclusive and neither is required as a pre-condition for choosing the other; however, they cannot both be used at the same time.

### **Section III. Informal Resolution Procedure**

#### **A. Informal Resolution**

Informal resolution may be an appropriate choice when the conduct involved 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.

A request for informal resolution should be reported as soon as possible after the time of their occurrence, in most cases this will be within thirty (30) calendar days to either the Office of the Dean of Students or the Office of Human Resources, who shall determine whether the nature of the problem is such that it can be resolved by agreement on an informal basis, and if so, which office will do so. Methods for informal resolution may include, but are not limited to: coaching the person on how to directly address a situation which is causing a problem; mediating the dispute with the parties; aiding in the modification of a situation in which the offensive conduct occurred; assisting a department or division with the resolution of a real or perceived problem; or arranging a documented meeting with the alleged offender that involves a discussion of the requirements of the Nondiscrimination Policy.

The University shall document any informal resolution. Such documentation shall be retained by the Dean of Students Office or the Office of Human Resources, as appropriate, and will be kept confidential to the extent permitted by law. An informal resolution meeting shall not be considered a precondition for the filing of a formal complaint.

### **Section IV. Complaint Resolution Procedure**

#### **A. Definitions**

A. *Complaint* means a document alleging discrimination, including harassment under this policy.

*Complainant* means a person who submits a complaint alleging discrimination, including harassment under this policy.





calendar days. Failure to file a complaint in a timely manner may limit the University's ability to thoroughly investigate the allegations.

3. *Acknowledgement:* Within five (5) working days after receipt of a written complaint, Human Resources or the Office of the Dean of Students, as appropriate, will send the complainant a brief acknowledgment of the complaint, stating that the complaint will be evaluated, and advising the complainant(s) that he or she will be contacted within a given time. The acknowledgment letter will include a copy of these complaint procedures.
4. *Complaint Evaluation:* A formal investigation will be initiated if a complaint is complete and within the scope of this policy and articulates sufficient specific facts, which, if determined to be true, would support a finding that this policy was violated. The University may not proceed with a complaint investigation under a variety of circumstances, for instance:
  1. a complaint fails to describe in sufficient detail the conduct that is the basis of the complaint;
  2. the conduct described in the complaint is not covered by this policy;
  3. the complainant declines to cooperate in The University's investigation;
  4. the complaint has been withdrawn; or
  5. an appropriate resolution or remedy has already been achieved, or has been offered and rejected.

If it is determined that the University will not proceed with a complaint investigation, the Office of Human Resources or the Office of the Dean of Students, as appropriate, will send a notification letter explaining the reason(s) to the complainant, with a copy to the alleged offender. The notification letter will also include a statement informing the complainant that, within ten (10) working days of the notification, he or she may appeal the determination not to proceed with a complaint investigation to the Vice President for Business Affairs or the Senior Associate Vice President for Student Services, as appropriate. The request for appeal must be a signed, written document articulating why the decision to dismiss the complaint was in error. The appropriate vice president will respond within twenty (20) working days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision to dismiss is overturned, the complaint is sent back to the Office of Human Resources or the Office of the Dean of Students, as appropriate, for investigation in accordance with the procedures outlined below.

5. *Notification of Respondent:* If it is determined that the University will proceed with a complaint investigation, the Office of Human Resources or the Office of the Dean of Students will give the respondent written notification of the complaint investigation. The notification letter will include a copy of the written complaint. The notification letter will provide the respondent

an opportunity to submit a written response to the allegations within ten (10) working days, unless unusual circumstances warrant additional time. The notification letter will include a statement advising the respondent that retaliation against the complainant is prohibited and will subject the respondent to appropriate disciplinary action.

6. *Investigation Responsibility:* The Office of the Dean of Students is responsible for conducting formal investigations of complaints against students alleging discrimination and harassment in violation of this policy. The Office of Human Resources is responsible for conducting formal investigations of complaints against non- students alleging discrimination and harassment in violation of this policy. If a complaint is directed against an individual who would otherwise play a role in investigating and attempting to resolve the complaint, the function assigned to that person by these procedures will be delegated to another person.
7. *Investigative Process and Findings:* The investigator will interview both the complainant and the respondent(s) and persons who are considered to have pertinent factual information related to the complaint. The investigator shall also gather and examine documents relevant to the complaint. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual. Findings will be based on the totality of circumstances surrounding the conduct complained of, including but not limited to: the context of that conduct, its severity, frequency, whether it was physically threatening, humiliating, or was simply offensive in nature.
8. *Representation:* During the complaint process, the complainant(s) and the respondent(s) may designate and thereafter be accompanied by an advisor of his or her choosing at meetings and interviews at which he or she is present; however, no representative may examine witnesses or otherwise actively participate in a meeting or interview.
9. *Submission of Evidence:* During the complaint investigation process, the complainant(s) and the respondent(s) will provide the Office of Human Resources or the Office of the Dean of Students, as appropriate, with all documents relied upon regarding the issues raised in the complaint.
10. *Report of Findings and Recommendation - Complaints Against Non-Students:*
  - a) The investigator will provide a proposed statement of findings, copies of relevant documents and any physical evidence considered to the appropriate vice president within thirty (30) working days of receipt of the respondent's statement, unless unusual circumstances require more time. The appropriate vice president to act on complaints against faculty and staff will be the vice president over the area where the respondent is employed. The appropriate vice president to act on complaints

against contractors and visitors will be the Vice President for Business Affairs. If a complaint is directed against a vice president who would otherwise act on a complaint, the function assigned to that vice president will be delegated to another person.

- b) The appropriate vice president will promptly notify the complainant and the respondent that the investigation has been completed and attach a copy of the proposed statement of findings. Student identifiable information, if any, which is confidential by law, will be redacted. Within ten (10) working days from the date of notification, the complainant and respondent may each submit, for consideration by the appropriate vice president, such comments and corrections as they may have.
- c) Within fifteen (15) working days of the notification to the complainant and the respondent that the investigation has been completed, the appropriate vice president and the investigator shall meet to discuss the findings, and review the record, along with any comments and proposed corrections submitted by the complainant and respondent.
- d) Within fifteen (15) working days from that meeting, the vice president shall take one of the following actions: a) request further investigation into the complaint; b) 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 c) find that this policy was violated.
- e) If the vice president determines that this policy was violated, he or she, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine a disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions can include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension without pay, and termination.
- f) The vice president shall inform the complainant and accused individual, and the appropriate unit head in writing of his or her decision, and shall attach a copy of the final statement of findings. Copies of the vice president's letter, the attached statement of findings, and relevant documents shall also be sent to the Office of the Dean of Students or the Office of Human Resources, Institutional Equity/EEO as appropriate.

- 11 *Report of Findings and Recommendation - Complaints Against Students:*
- a) The Dean of Students (investigator) will provide a proposed statement of findings, copies of relevant documents and any physical evidence considered to the Senior Associate Vice President for Student Services within thirty (30) working days of receipt of the respondent's statement, unless unusual circumstances require more time. The Senior Associate Vice President for Student Services and the investigator shall meet within fifteen (15) working days to discuss the findings, and review the record.
  - b) Within fifteen (15) working days from that meeting, the Senior Associate Vice President for Student Services shall take one of the following actions: a) request further investigation into the complaint; b) 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 c) find that this policy was violated.
  - c) If the Senior Associate Vice President for Student Services determines that this policy was violated, he or she, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine whether to initiate a disciplinary action appropriate to the severity of the conduct pursuant to Part V, Section I Conduct and Discipline of the UTPB Handbook of Operating Procedures. ([http://www.utpb.edu/docs/default-source/utpb-docs/pdf/hop/part\\_v.pdf?sfvrsn=2](http://www.utpb.edu/docs/default-source/utpb-docs/pdf/hop/part_v.pdf?sfvrsn=2)) Disciplinary actions can include, but are not limited to, a documented warning, the imposition of conditions, probation, suspension, and dismissal.
  - d) As required by federal law, any disclosure of the findings and decision of the Office of the Dean of Students will be governed by the provisions of the Family Educational Rights and Privacy Act.

## **Section V. Miscellaneous**

### **A. Grievance of a Disciplinary Action:**

1. Any employee disciplined pursuant to this policy, except faculty, graduate research assistants, graduate teaching assistants, or members of the University of Texas of the Permian Basin Police Department (each of whom are subject to separate grievance procedures), may grieve that action by submitting a written grievance, within ten (10) working days of the imposition of the disciplinary action, to the president's office. Ordinarily, the president will assign responsibility for review and

action on the appeal of the vice president's action to another vice president; however, when required by unusual circumstances, the president may review and handle a grievance pursuant to this policy.

2. If the disciplinary action that is being grieved does not involve termination, demotion, or suspension without pay, the vice president shall thoroughly review and finally decide the matter within thirty (30) calendar days of its receipt unless unusual circumstances require more time.
3. If the disciplinary action that is being grieved involves the termination, demotion or suspension without pay of a faculty member with the rank of Regental Professor, Professor, Associate Professor, Assistant Professor, or Instructor, the vice president who is assigned to review the grievance shall follow the procedures for appealing such actions contained in the UTPB Handbook of Operating Procedures, Section I, Part 11. (<http://www.utpb.edu/docs/default-source/utpb-docs/pdf/hop/hopp1.pdf?sfvrsn=2>) Complainants will be required to appear and testify at hearings that may be a part of such proceedings.
4. Any student disciplined under this policy has the right to appeal as provided in Part V, Section I of the UTPB Handbook of Operating Procedures. ([http://www.utpb.edu/docs/default-source/utpb-docs/pdf/hop/part\\_v.pdf?sfvrsn=2](http://www.utpb.edu/docs/default-source/utpb-docs/pdf/hop/part_v.pdf?sfvrsn=2))
5. The student must give written notice of appeal to the President within fourteen (14) calendar days after all parties are notified of the decision.

**B. Retaliation Prohibited:**

A student, faculty, or staff member who retaliates in any way against an individual who has brought a complaint pursuant to this policy or participated in good faith in an investigation of such a complaint, is subject to disciplinary action, up to and including dismissal from the University.

**C. Filing of False Complaints:**

Any person who knowingly and intentionally files a false complaint under this policy is subject to disciplinary action up to and including dismissal from the University.

**D. . Effect on Pending Personnel Actions:**

The filing of a nondiscrimination or retaliation complaint will not stop or delay any evaluation or disciplinary action related to the complainant who is not performing up to acceptable standards or who has violated University rules or policies.

**E. Relationship of Complaint Process to Outside Agency Time Limits:**

The filing of a discrimination or harassment complaint under this policy does not excuse the complainant from meeting the time limits of outside agencies.

**F. Relationship to Grievance Procedure:**

This complaint procedure shall also constitute the grievance procedure for complaints alleging unlawful discrimination. As used herein, "complaint" is synonymous with "grievance."

**G. Time Frame:**

Time frames mentioned in these procedures may be extended for good cause, such as holidays or when classes are not in session, or when it is necessary to complete an investigation due to difficulties reaching witnesses or parties to the complaint.

**H. Documentation and Confidentiality:**

The University shall maintain documents related to complaints under this policy as required by law. The Office of the Dean of Students shall be primarily responsible for records related to complaints against students. The Office of Human Resources shall be primarily responsible for records related to complaints against non-students. The confidentiality of a complaint under this policy and all documents, correspondence, interviews and discussions relating to the investigation of the information contained in a complaint will be maintained on a need to know basis to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise relating to the investigation of a complaint under this policy is subject to disciplinary action.

**For Assistance:** Questions regarding this policy should be directed to the Office of the Dean of Students or Human Resources.

**Sources:** Titles VI and VII of the Civil Rights Act of 1964, as amended; Age Discrimination in Employment Act of 1967, as amended; Age Discrimination Act of 1975; Americans with Disabilities Act of 1990; Equal Pay Act of 1963; Uniformed Services Employment and Reemployment Rights Act; Genetic Information Nondiscrimination Act of 2008; Executive Order of 11246; Sections 503 and 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; Texas Labor Code, Chapter 21; UT System Board of Regents Rule 10701, 31002, 31007; UT System Policy UTS105.

### **Policy History**

Issued: November 2015

### **Policy Links**

- **Permalink for this policy: <http://policy.utdallas.edu/utdbp3090>**
- **Link to PDF version: <http://policy.utdallas.edu/pdf/utdbp3090>**
- **Link to printable version: <http://policy.utdallas.edu/print/utdbp3090>**

## **2. Sexual Harassment/Sexual Misconduct Policy**

### **2.1 General Policy Statement**

2.11 The University of Texas of the Permian Basin 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 is a form of sex discrimination and will not be tolerated. As stated in the definition, sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.

2.12 The University will take prompt disciplinary action against any individuals or organizations within its control who violate this Policy. The University encourages any student, faculty, staff or visitor to promptly report violations of this Policy to an individual identified in Section 3.2.



- 2.13 **Applicability.** This Policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for 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. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent. In addition, it applies whether the complaint was made by or against a third party, and whether the complaint was made verbally or in writing.
- 2.14 **Filing a Complaint and Reporting Violations.**
- 2.15 **All Members of the University Community, Third Party and Anonymous Complaints.** All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct to the Title IX Coordinator or Deputy Coordinators.
- 2.151 **Anonymity.** Individuals wishing to remain anonymous can file a complaint in any manner, including by telephone or written communication with the Title IX Coordinator or a Deputy Coordinator; however, electing to remain anonymous may greatly limit the University's ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the Policy.
- 2.152 **Confidentiality.** The University has an obligation to maintain an environment free of sex discrimination, thus many University employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined in Section 3.5.
- 2.153 **Timeliness of Complaint.** Complaints should be reported as soon as possible after the complainant becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the University's ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the Policy.
- 2.2 Responsible Employees.** Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees. A Responsible Employee is a University employee who has the

duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5.<sup>1</sup> Responsible Employees can find contact information for the Title IX Coordinator and Deputy Coordinators at the following website: <http://www.utpb.edu/campus-life/dean-of-students/sexual-harassment-sexual-assault-/title-ix>.

- 2.3** Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas of the Permian Basin Police Department at 432-552-2786 (non-emergency) or 432-552-2911 (emergency), to the City of Odessa Police Department at 432-333-3641 (non-emergency) or 911 (emergency), to the City of Midland Police Department at 432-685-7108 (non-emergency) or 911 (emergency), or to other local law enforcement authorities. The Title IX Deputy Coordinators can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department.

2.31 If a complaint of sexual misconduct is reported to the University Police Department, it shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police Department shall also notify the Title IX Coordinator of the complaint, and provide the Title IX Coordinator or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

- 2.4** Reporting to Outside Entities. An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or sexual misconduct including sexual violence:

Office for Civil Rights  
U.S. Department of Education  
1999 Bryan Street, Suite 1620  
Dallas, TX 75201-6810  
Phone: (214) 661-9600

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<sup>1</sup> For example, a student may make a complaint to an employee in the Dean of Students' Office, a faculty member or university police. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report the complaint to the Title IX Coordinator or other appropriate designee.

FAX: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination or sexual harassment:

U.S. Equal Employment Opportunity Commission  
Dallas District Office  
207 S. Houston Street, 3<sup>rd</sup> Floor  
Dallas, TX 75202  
Phone: (800) 669-4000  
FAX: (214) 253-2720

- 2.5** Confidential Support and Resources. Physical and mental health care professionals and pastoral counselors (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the victim, without the victim's permission. Thus, students may discuss an incident with a counselor in Counseling and Psychological Services, a health care provider in Health Services, the clergyperson of the student's choice, or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the incident will be reported to the Title IX Coordinator. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of the employee's choice, or an off-campus rape crisis resource without concern that the incident will be reported to the Title IX Coordinator. The University and community resources that provide such services are: UTPB Counseling Center, located at FB 061, phone number 432-552-2365.
- 2.6** Immunity. In an effort to encourage reporting of sexual misconduct, the University may grant immunity from student disciplinary action to a person who voluntarily initiates a report of sexual misconduct or assists a complainant, if that person acts in good faith in reporting a complaint or participating in an investigation. This immunity does not extend to the person's own violations of this Policy.
- 2.7** Title IX Coordinator and Deputy Coordinators. The Title IX Coordinator and Deputy Coordinators are:

Title IX Coordinator: MB 4240A, 432-552-2697,  
[TitleIXCoordinator@UTPB.edu](mailto:TitleIXCoordinator@UTPB.edu).

Deputy Title IX Coordinator for Student Issues: Associate Dean of Students,  
MB 2120C, 432-552-4654

Deputy Title IX Coordinator for Faculty/Staff Issues: Director of Human  
Resources, MB 4224, 432-552-2750

**2.8** Parties' Rights Regarding Confidentiality. The University has great respect for the privacy of the parties in a complaint. Under federal law, however, Responsible Employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator and/or a Deputy Coordinator. The coordinators may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

2.81 In the course of the investigation, the University may share information only as necessary with people who need to know to fulfill the purposes of this Policy and applicable law, such as investigators, witnesses, and the respondent. The University will take all reasonable steps to ensure there is no retaliation against a complainant. The University will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the University will also protect the privacy of all parties to a report of sexual misconduct.

**2.9** Victim Resources.

2.91 Immediate Assistance.

**SANE (Sexual Assault Nurse Examiner) Exam location,** contact Midland Memorial Hospital at 432-221-1111 for general information or ER service 432-221-1558.

**Medical Center Hospital:** General information 432-640-4000 or ER service 432-640-1190.

**UTPB Counseling Center:** 432-552-2365.

**RAINN (Rape, Abuse and Incest National Network):** Information and resources on sexual assault and sexual harassment [www.rainn.org](http://www.rainn.org).

2.92 Healthcare. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 4 days of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of Midland Memorial Hospital or the nearest hospital that provides SAFE services.

For more information about the SAFE, see <http://hopelaws.org/> or <https://www.texasattorneygeneral.gov/victims/sapcs.shtml#survivors>. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

2.93 Police Assistance. The University encourages individuals who have experienced sexual misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the sexual misconduct occurred. If the incident occurred on the University campus, a report may be filed with the UTPB Police Department by calling 432-552-2786 or in person at the UTPB Police Department headquarters at MB 1103, even if time has passed since the assault occurred.

2.931 The UTPB Police Department can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a University disciplinary hearing. If the University police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by the police department. A report may be filed with the University police even if the assailant was not a University student or employee. If the incident occurred in the City of Odessa or Midland, but off campus, a report may be filed with the City of Odessa or Midland Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

2.94 Counseling and Other Services. A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if he or she does not plan to request a SAFE or report the assault to the police. He or she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed.

2.941 Medical care can be provided at University Health Services (for students only), at a local emergency room, or by a private physician. Psychological support can be provided by the University Counseling Center (students), Employee Assistance (employees), a referral through the Employee Assistance Program, or a care provider of the individual's choosing.

Students desiring counseling should contact:

**The UTPB Counseling Center, located at FB 061, phone number 432-552-2365.**

Faculty and staff should contact:

**The UTPB Counseling Center, located at FB 061, phone number 432-552-2365.**

## 2.10 Interim Measures and Ongoing Assistance.

In addition to the services provided by on- and off-campus providers, the University will take immediate and interim measures to assure the safety and well-being of the complainant, to maintain an environment free from harassment, discrimination or retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment. Interim action may also include allowing the complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the University may be able to provide additional accommodations for a complainant while an investigation is pending.

## 2.11 Intake Procedures and Protocol.

2.111 Key Officials in an Investigation.

2.112 Title IX Coordinator. The Title IX Coordinator is the senior University administrator

who oversees the University's compliance with Title IX. The Title IX Coordinator is responsible for leading the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators.

Any member of the University community may contact the Title IX Coordinator with questions.

2.113 Investigators. The Title IX Coordinator will ensure that complaints are properly investigated under this Policy. The Title IX Coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this Policy. The Title IX Deputy Coordinators shall supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary.

## **2.12 Assessment of Complaint.**

The Title IX Coordinator or designee will conduct a preliminary assessment of the complaint and determine whether a formal resolution or an informal resolution should occur. Informal resolution may be appropriate:

2.121 With a complaint solely of sexual harassment, not including sexual violence as defined in this Policy; and

2.122 When both parties are categorically similar (i.e. employee/employee or student/student).

**2.13 Notification of University Offices Offering Assistance.** After receiving a complaint, the Title IX Coordinator shall direct the Deputy Title IX Coordinator for Student Issues for students or the Deputy Title IX Coordinator for Faculty/Staff Issues for employees to inform the complainant of available resources and assistance. While taking into consideration requested confidentiality, the Deputy Title IX Coordinator for Student Issues for students and Deputy Title IX Coordinator for Faculty/Staff Issues office may serve as a liaison between the complainant and the Title IX Coordinator during the investigation.

**2.14 Informal Resolution of Certain Sexual Harassment Complaints. (OPTIONAL)**  
A complainant may use this option instead of or before filing a formal complaint, but is not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he or she has been subject to sexual misconduct may immediately file

a formal complaint as described in Section 3 of this Policy. An individual wishing to use the informal resolution process should contact the Title IX Coordinator.

2.141 Informal Assistance. In certain sexual harassment complaints, an individual may not wish to file a formal complaint. If informal assistance is deemed appropriate by the Title IX Coordinator or designee, then the individual will be provided assistance in informally resolving the alleged sexual harassment. Assistance may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, directing a University official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, the University may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.

2.142 Timeframe. Informal resolutions should be completed no later than 10 business days after the Title IX Coordinator receives the request for informal resolution.

Confidentiality and Documentation. The University will document and record informal resolutions. The Title IX Coordinator will retain the documentation. If the individual's wish to remain anonymous limits the University's ability to establish facts and eliminate the potential harassment, the University will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of sexual harassment.

## **2.15 Formal Complaint and Investigation.**

2.151 Formal Complaint. To begin 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 that is relevant to the complaint. The University may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. The University office receiving the complaint should refer the complaint to the Title IX Coordinator.



2.152 Investigation.

2.1521 An investigator will be assigned to investigate the complaint.

2.1522 As part of the investigation process, the complainant and the respondent will be provided notice of the complaint and allowed a reasonable time to respond in writing.

2.1523 The complainant and the respondent may present any document or information that is believed to be relevant to the complaint.

2.1524 Persons thought to have information relevant to the complaint will be interviewed, and those interviews will be appropriately documented. Both the respondent and the complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.

2.1525 The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding 60 days, a justification for the delay will be presented to and reviewed by the Title IX Coordinator or his/her supervisor. The complainant, respondent, and supervisor should be provided updates on the progress of the investigation and issuance of the report.

2.1526 After the investigation is complete, a written report<sup>1</sup> will be issued to the Title IX Coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the respondent (i.e., student, faculty or employee). The report shall include factual findings and a preliminary conclusion of whether a policy violation occurred (based on a “preponderance of the evidence” standard).

2.1527 After the written report is completed, the complainant and respondent will be allowed to inspect the report or, at the university’s discretion, provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. If a letter is provided, it will contain enough detail to allow the complainant and respondent to comment on the adequacy of the investigation. Each will have 7 business days from the date of receipt (as indicated

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<sup>1</sup> Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

on the return receipt) to submit written comments regarding the investigation to the Title IX Coordinator.

- 2.1528 Within 7 business days after the deadline for receipt of comments from the complainant and respondent, the Title IX Coordinator or his or her designee will: (1) request further investigation into the complaint; (2) dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or (3) find that the Policy was violated. A decision that the Policy was violated shall be based on the record.
- 2.1529 If the Title IX Coordinator or his or her designee determines that the Policy was violated, he or she will refer the matter for disciplinary action under the applicable disciplinary policies and procedures, which depend on the status of the respondent (i.e., student, faculty or employee).
- 2.1530 The complainant and the respondent shall be informed concurrently in writing of the decision in accordance with section 6.5.G of this Policy.
- 2.1531 The appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures dependent on the status of the respondent (i.e., student, faculty or employee).
- 2.16** Standard of Proof. All investigations under this Policy will use the preponderance of the evidence standard to determine violations of this Policy.
- 2.17** Timelines. Barring any unforeseen and reasonable delays, the University will endeavor to resolve complaints under this Policy no later than 60 calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds 60 calendar days, the University will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.
- 2.171 At the request of law enforcement, the University may defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding his/her Title IX rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure his/her safety and well-being. The University will also communicate with the respondent regarding his/her Title IX rights, procedural options and information

regarding the status of the investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

2.172 The filing of a complaint under this Policy does not excuse the complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the University's investigation of the complaint.

**2.18 Remedies.** In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- 2.181 Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
- 2.182 Ensuring the complainant and respondent do not share classes, working environments or extracurricular activities;
- 2.183 Making modifications to the on campus living arrangements of the respondent or complainant (if the complainant requests to be moved);
- 2.184 Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- 2.185 Providing the complainant extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- 2.186 Determining whether sexual misconduct adversely affected the complainant's university standing;
- 2.187 Designating an individual specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist victims whenever needed;
- 2.188 Conducting, in conjunction with University leaders, a University climate check to assess the effectiveness of efforts to ensure that the University is free from sexual misconduct, and using that information to inform future proactive steps that the University will take;
- 2.189 Providing targeted training for a group of students if, for example, the sexual misconduct created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team. Bystander intervention and sexual misconduct prevention programs may be appropriate;
- 2.1810 Issuing policy statements or taking other steps to clearly communicate that the University does not tolerate sexual misconduct and will respond to any incidents and to any individual who reports such incidents.

2.181 These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the University's investigation. If the complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

**2.19** Sanctions and Discipline. Disciplinary action against faculty and employees will be handled under the University's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. The Associate Dean of Students will impose disciplinary action, if any, against a student under the University's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

[Student Conduct and Discipline Policy](#)  
[Discipline and Dismissal Policy and Procedures](#)

In accordance with federal law, when disciplinary action is commenced because of a violation of this Policy, the above policies will provide both parties equal opportunities in all aspects of the process including notices and advisor representation. Further, the standard of proof in determining the outcome will be the "preponderance of the evidence," as defined in this policy.

**2.20** Provisions Applicable to the Investigation.

2.201 Assistance. During the investigation process, a complainant or respondent may be assisted by an advisor, who may be an attorney; however, the advisor may not actively participate in a meeting or interview.

2.202 Time Limitations. Time limitations in these procedures may be modified by the Title IX Coordinator or appropriate administrator on a written showing of good cause by the complainant, respondent, or the University.

2.203 Concurrent Criminal or Civil Proceedings. The University will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The University has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Sec. 6.7).

2.204 Documentation. The University shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and University policy.

**2.21 Dissemination of Policy and Educational Programs.**

2.211 This Policy will be made available to all University administrators, faculty, staff, and students online at <http://www.utpb.edu/campus-life/dean-of-students/sexual-harassment-sexual-assault-> [http://www.utpb.edu/docs/default-source/utpb-docs/pdf/hop/part\\_iii.pdf?sfvrsn=2](http://www.utpb.edu/docs/default-source/utpb-docs/pdf/hop/part_iii.pdf?sfvrsn=2) and in University publications. Periodic notices will be sent to University administrators, faculty, staff and students about the University's Sexual Harassment/Sexual Misconduct Policy. The notice will include information about sexual misconduct, including the complaint procedure, and about University disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.

2.212 Ongoing Sexual Misconduct Training. The University's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. The University will periodically educate and train employees and supervisors regarding the Policy and conduct that could constitute a violation of the Policy. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on sexual harassment and sexual violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise University administrators, faculty, staff, and students of their rights to file a complaint under this Policy and their right to file a criminal complaint. [REDACTED]

2.213 Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year about offenses, investigatory procedures, due process, and University policies related to sexual misconduct.

**2.22 Additional Conduct Violations.**

2.221 Retaliation. Any administrator, faculty member, student or employee who knowingly and intentionally retaliates in any way against an individual who has brought a complaint under this Policy, participated in an investigation or disciplinary process of

such a complaint, or opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University.

2.222 False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. A finding of non-responsibility does not indicate a report was false.

2.223 Interference with an Investigation. Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this Policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an ongoing investigation may include, but is not limited to:

2.2231 Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;

2.2232 Removing, destroying, or altering documentation relevant to the investigation; or

2.2233 Providing false or misleading information to the investigator, or encouraging others to do so.

2.224 No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint.

The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including: (1) any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated University rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a University employee. Nothing in this section shall limit the University's ability to take interim action.

**2.23** Documentation. The University shall confidentially maintain information related to complaints under this Policy, as required by law. The Title IX Coordinator will document each complaint or request for assistance under this Policy, whether made by a victim, a third party, or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise related to the investigation of a complaint under this Policy is subject to disciplinary action.

**2.24 Annual Reporting and Notice.** The University’s Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments. On an annual basis, and upon any updates to this Policy, the University will send notice of its compliance with Title IX as required by law. The annual notice shall designate the Title IX Coordinator and Deputy Coordinators, explain which offenses are prohibited and where to report violations of this Policy, provide information regarding victim resources, and provide a link to this Policy and other related University websites.

**2.25 Definitions and Examples<sup>1</sup>**

**2.251 Consent** – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Past consent does not imply future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual’s ability to exercise his or her own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.

The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.<sup>2</sup>

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<sup>1</sup> The definitions provided in the main body of the text are the definitions adopted by the University. When applicable, we have included the state law definition. In any criminal action brought by law enforcement, the state law definition will apply.

<sup>2</sup> Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person’s power

**2.252 Dating Violence<sup>1</sup>** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship

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

**2.253 Domestic (Family) Violence<sup>2</sup>** – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person

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to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat.

<sup>1</sup> Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
  - (1) is committed against a victim:
    - (A) with whom the actor has or has had a dating relationship; or
    - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
  - (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:
  - (1) the length of the relationship;
  - (2) the nature of the relationship; and
  - (3) the frequency and type of interaction between the persons involved in the relationship.
- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

<sup>2</sup> Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections [261.001\(1\)\(C\)](#), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) dating violence, as that term is defined by Section [71.0021](#).



with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Texas, or 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 state of Texas.

- 2.254 **Hostile Environment** – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the University's programs or activities or an employee's terms and conditions of employment. A hostile environment can be created by anyone involved in a University's program or activity (e.g., administrators, faculty members, employees, students, and University visitors).

In determining whether sex-based harassment has created a hostile environment, the University considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a hostile environment exists for an individual or individuals, the University considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

- 2.2543 The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

- 2.2544 First Amendment Considerations: this Policy does not impair the exercise of rights protected under the First Amendment. The University's sexual misconduct

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Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

policy prohibits only sex-based harassment that creates a hostile environment. In this and other ways, the University applies and enforces this Policy in a manner that respects the First Amendment rights of students, faculty, and others.

- 2.255 **Incapacitation** – A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.
- 2.256 **Intimidation** – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
- 2.257 **Other Inappropriate Sexual Conduct** – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.
- 2.258 **Preponderance of the Evidence** – The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.
- 2.259 **Responsible Employee** – A University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible employees include all administrators, faculty, supervisory staff, resident life directors and advisors, and graduate teaching assistants, except any employee with confidentiality obligations as defined in Section 3.5. Incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct may also be reported to Responsible Employees.
- 2.260 **Retaliation** – Any adverse action threatened or taken against someone *because* the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

2.261 **Sexual Assault**<sup>1</sup> – An offense that meets the definition of rape, fondling, incest, or statutory rape:

2.2611 *Rape*: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

2.2612 *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

2.2613 *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2.2614 *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.

2.262 **Sexual Exploitation** – Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

2.263 **Sexual Harassment** – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in University activities, or creates an objectively hostile environment; or such conduct is

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<sup>1</sup> Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- c) Causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive environment. Sexual harassment is a form of sex discrimination that includes:

- 2.2631 Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
- 2.2632 Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
  - 2.26321 unwelcome intentional touching; or
  - 2.26322 deliberate physical interference with or restriction of movement.
- 2.2633 Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
  - 2.26331 explicit or implicit propositions to engage in sexual activity;
  - 2.26332 gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
  - 2.26333 gratuitous remarks about sexual activities or speculation about sexual experiences;
  - 2.26334 persistent, unwanted sexual or romantic attention;
  - 2.26335 subtle or overt pressure for sexual favors;
  - 2.26336 exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
  - 2.26337 deliberate, repeated humiliation or intimidation based upon sex.
- 2.264 **Sexual Misconduct** – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.
- 2.265 **Sexual Violence** – Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

2.266 **Stalking**<sup>1</sup> – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition--

2.2661 *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.

2.2662 *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

2.2663 *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## 2.26 Relevant Federal and State Statutes, and Standards

[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 and its implementing regulations, 34 C.F.R. Part 106](#)

[Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e–2000e-17 and its implementing regulations 29 C.F.R. §1604 11.](#)

[Clery Act, 20 U.S.C 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

[FERPA Regulations, 34 C.F.R. Part 99](#)

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<sup>1</sup> Stalking as defined by Texas Penal Code, Section 42.072 is when an individual on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
  - i. bodily injury or death for the other person;
  - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
  - iii. that an offense will be committed against the other person's property;
- b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
  - i. fear bodily injury or death for himself or herself;
  - ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
  - iii. fear that an offense will be committed against the person's property; or
  - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

## **2.27 Other Relevant Policies, Procedures, and Forms**

References:

[Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships](#)

[University of Texas System Administration Systemwide Policy \(UTS 184\), Consensual Relationships](#)

[Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member](#)

[Staff Discipline policy](#)

[Student Discipline policy](#)

## **2.28 System Administration Office(s) Responsible for Policy**

Office of General Counsel

## **2.29 Dates Approved or Amended**

April 6, 2015

February 21, 2012

## **2.30 Contact Information**

Questions or comments about this Policy should be directed to:

- [ogc\\_intake@utsystem.edu](mailto:ogc_intake@utsystem.edu)

# **3. CONSENSUAL RELATIONSHIPS POLICY**

## **3.1 Purpose**

The University of Texas of the Permian Basin is committed to maintaining learning and work environments as free as possible from conflicts of interest and favoritism. The University recognizes that two consenting adults should be free to conduct a personal relationship if they so wish when the relationship does not interfere with the goals and policies of the University; some romantic, dating and/or sexual relationships, although consensual, do create conflicts of interests. This policy addresses those consensual relationships.

## **3.2 Persons Affected**

This policy applies to all University administrators, faculty, staff, and students. This policy is applicable regardless of the gender of the University employee with supervisory teaching, evaluation or advisory authority and/or the gender of the employee, student or student employee who is directly or indirectly supervised, taught, evaluated, or advised by the supervisory employee.

### **3.3 Policy**

3.31 Prohibited Consensual Relationships. The following consensual relationships, even if a single event, are prohibited:

3.311 A consensual relationship between a supervisor (as defined below and is defined as including faculty members) and supervisee regardless of whether the supervisory relationship is direct or indirect, unless the supervisor discloses the relationship in advance and a management plan is in effect;

3.312 A consensual relationship between a coach or athletic staff and any student athlete or student assigned to or associated with the athletics department, such as interns and student employees, unless waived by the President or his or her designee for good cause.

#### 3.32 Reporting Requirements.

3.321 The supervisor must report a consensual relationship as described in 3.1. to the Dean/Director level administrator or if there is not such an administrator, the appropriate Vice President and the Human Resources Director. The supervisor must make the report prior to entering into the relationship or if the relationship exists, with as much advance notice as possible prior to the supervisor accepting supervisory authority.

3.322 The individuals receiving the report must immediately collaborate to attempt to manage the conflict of interest. If management of the conflict is not possible, the relationship is prohibited.

#### 3.33 Management plan.

3.331 If the conflict can be managed, Human Resources Director will provide a management plan to the supervisor within seven (7) business days of the report unless there are reasonable grounds for additional time. A consensual relationship may not exist until the management plan is in effect.

3.332 A management plan will:

- 3.3321 provide an alternative means for the supervision, teaching, advising, evaluation of the supervisee or otherwise mitigate the conflict;
- 3.3322 give priority to the interest of the subordinate individual;
- 3.323 be written;
- 3.3324 be acknowledged and signed by the parties to the relationship; and
- 3.325 be maintained by the Office of Human Resources

### 3.34 Reporting Alleged Violations.

3.341 Violations of this policy should be reported to the Human Resources Director.

3.342 An individual in a supervisory role over a supervisor who is notified of or becomes aware of an alleged violation of this policy must immediately report the information to the Human Resources Director.

### 3.35 Investigation and Discipline.

3.351 The matter will be investigated and if a policy violation occurred, the University may take disciplinary action, which may include termination.

If there is a complaint of sexual harassment about a relationship covered by Sec. 3.3, above, and the relationship has not been disclosed and a management plan implemented, the burden shall be on the supervisor to explain the failure to comply with this policy and such failure will be a factor in determining whether the relationship was consensual and free of sexual harassment.

3.352 Disciplinary action will be handled under the University's policies for discipline and dismissal of faculty or employees depending on the supervisor's status.

### 3.36 Campus Culture. Human Resources Director is responsible for the following:

3.361 (a) Disseminating the University Consensual Relationship Policy; developing annual workshops or presentations for faculty members, employees, and students that educate the campus community about this Policy;

3.362 (b) The Provost and the Human Resources Director are responsible for the following:

3.3621 appointing respected faculty and staff members to promote the institutional stance against inappropriate employee/student relationships and to lead the University's effort to maintain this culture;



- 3.3622 organizing meetings of campus administrators, faculty leadership and student leadership to discuss the importance of establishing a climate in which consensual relationships between employees and students are unacceptable;
- 3.3623 providing instruction to students during orientation to reinforce:
- 3.36221 the student's responsibility in avoiding consensual relationships, and
- 3.362222 helping students understand the collateral damage that can result when such relationships occur.

3.37 Retaliation Prohibited. Retaliation of any kind against anyone for reporting a consensual relationship or for participating in any proceeding pursuant to this Policy is prohibited.

3.38 Counseling. Confidential counseling services are available to employees through the Employee Assistance Program and to students through the UTPB Counseling Center located at FB 061, phone number 432-552-2365.

### **3.4 Definitions**

3.41 Consensual Relationship – a romantic, dating, and/or sexual relationship agreed to by the parties involved.

3.42 Direct authority – The authority vested in an individual as a result of his/her immediate position of power over another. Examples include, but are not limited to: supervisor - supervised employee; faculty - enrolled student; faculty committee member - student submitting thesis; faculty mentor – student mentee; coach - coached athlete; Dean - supervised faculty.

3.43 Indirect Authority – Authority derived from an informal or indirect relationship which allows for determinations or evaluations affecting the terms and conditions of employment or student status. Examples include, but are not limited to: a student majoring in a particular field who would still be indirectly under the control or influence of a senior professor or individual in the department or school; an employee in the same organizational unit who is under the indirect control of all more senior individuals in the department; a graduate teaching assistant and a non-supervising department faculty member.

3.44 Management plan – A written plan developed as provided in this policy that mitigates the conflict and is acknowledged and signed by both parties.

3.45 Supervisor – A University faculty member or employee who has direct or indirect supervisory, teaching, evaluation or advisory authority over an employee or student.

3.46 Supervisee – Any person whose terms and conditions of employment or student status are directly or indirectly controlled or affected by a supervisor.

**3.5 Relevant Federal and/or State Statute(s), Board of Regents' Rule(s), UTS Policy(ies), and/or Coordinating Board Rule(s)**

[University of Texas System Systemwide Policy, UTS 184 Consensual Relationships](#)

[University of Texas System Regents' Rules and Regulations, Rule 30105](#)

Report of the UTS Task Force on Employee/Student Relationships, December 12, 2013

**4. Drug-Free Workplace Policies**

**4.1 Drug-Free Workplace Policy Statement**

The University of Texas of the Permian Basin is required by the Drug-Free Workplace Act of 1988 (41 U.S.C.A. 701-707), to notify all employees that the unlawful manufacture, sale, distribution, possession or use of a controlled substance in or on any premises or property owned or controlled by The University is prohibited. A controlled substance is any substance so defined by federal or state statute or regulation.

Any employee who is found guilty (including a plea of no contest) or has a sentence, fine or other penalty imposed by a court of competent jurisdiction under a criminal statute for an offense involving a controlled substance that occurred in or on premises or property owned or controlled by The University shall report such action to the Office of Human Resources within five (5) days. An employee who unlawfully manufactures, sells, distributes, possesses or uses a

controlled substance in or on premises or property owned or controlled by The University, regardless of whether such activity results in the imposition of a penalty under a criminal statute, will be subject to appropriate disciplinary action, including termination, or will be required to participate satisfactorily in an approved drug assistance or rehabilitation program or both.

#### **4.2 Purpose**

The purpose of this statement is to establish policy for employees of The University of Texas of the Permian Basin concerning manufacture, sale, possession, distribution, or use of alcohol or illegal drugs.

4.211 during working hours;

4.212 in a manner while off duty that impairs on-duty work performance or

4.413 in a manner while in attendance at an official University function or at an authorized University site that adversely affects the performance of the employee or may adversely affect the health or safety of any other person.

#### **4.3 Enforcement**

4.311 An employee who violates the following policy may be subject to disciplinary action, including termination.

4.312 At the discretion of The University, The University, the employee may be referred to an assistance program and/or may be required to participate in and satisfactorily complete a chemical abuse rehabilitation program as a condition of continued employment.

#### **4.4 Policy**

4.411 Unauthorized purchase, manufacture, distribution, possession, sale, storage or use of an illegal drug or controlled substance while on duty, while in or on premises or property owned or controlled by The University, or while in vehicles used for University business are prohibited.

4.412 The unauthorized use or possession of alcohol while on duty or while in vehicles used for University business is prohibited.

- 4.413 Use of alcohol or an illegal drug or controlled substance while not on duty which adversely affects job performance or may adversely affect the health or safety of other employees, students, visitors, or patient, is prohibited.
- 4.414 Use of alcohol at an authorized University function, in the course of official University business, or at an authorized University site which adversely affects job performance or may adversely affect the health or safety of any other person is prohibited.
- 4.415 Warnings about prescribed or over-the-counter medication and its impact on work performance or on individual or job safety must be heeded by the employee. A supervisor's advice and assistance may be necessary when job adjustments are required to ensure an employee's ability to perform assigned work in a safe manner because of use of such medications.
- 4.416 Distribution to others of a drug or controlled substance obtained pursuant to a prescription, except by duly licensed and certified persons, while on duty or while in or on premises or property controlled by The University is prohibited.
- 4.417 Employees who use illegal drugs or abuse controlled substances or alcohol are encouraged to seek help from available resources.

#### **4.5 Drug and Alcohol Testing Policy for Positions Requiring Commercial Drivers' Licenses**

This policy applies only to those persons who are applicants for or who are employed in positions that require a commercial drivers' license, otherwise referred to herein as safety-sensitive functions. A "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

##### **4.51 Commercial Vehicle**

- 4.511 has a gross combination weight rating in excess of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- 4.512 has a gross vehicle weight rating of 26,001 or more pounds;
- 4.513 is designed to transport 16 or more passengers, including the driver; or
- 4.514 is transporting hazardous materials and is required to be placarded in accordance with 49 CFR, Part 172, Subpart F. (Texas Traffic Laws, VCS Art.6687b-2,Sec.3 (6).)

The provisions of this drug and alcohol testing policy do not relieve an employee from

requirements pursuant to other University policies on drugs and alcohol.

#### **4.52 Applicants for Employment:**

All applicants who have been conditionally accepted for employment in positions that require a commercial drivers' license will be required to provide a urine sample for testing for the presence of illegal drugs in accordance with the provisions of Section 2.57. A verified negative test result will be required on this controlled substance test. Additionally, they will be required to undergo alcohol testing in accordance with Section 4.57.

4.521 All published or posted notices of vacancies in positions covered by this Policy shall state that all applicants selected for hire will be required to consent to a urinalysis for the purpose of testing for the presence of illegal drugs.

4.522 Applicants selected for hire who refuse to consent to a urinalysis or who test positive for the presence of illegal drugs in prohibited concentrations will not be considered for employment in a position covered by this Policy and may not reapply for such employment for a period of six months.

4.523 Prior to signing the consent form for testing, applicants selected for hire will be informed of the testing procedures either orally or in writing.

#### **4.53 Prohibited Employee Conduct**

##### 4.531 Alcohol Use

4.5311 use or possession of alcohol while on duty requiring the performance of safety-sensitive functions

4.5312 use of alcohol during four hours before being on duty requiring the performance of a safety-sensitive functions

4.5313 having prohibited concentrations of alcohol (.04 or greater) in system while on duty requiring the performance of safety-sensitive functions

4.5314 use during the 8 hours following an accident requiring a post- accident test (see 2.54 below) or until the employee undergoes a post-accident alcohol test, whichever occurs first

##### 4.532 Drug Use

4.5321 use or possession of controlled substances while holding a position requiring the performance of safety-sensitive functions, except when the use is pursuant to the

instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial vehicle

4.5322 testing positive for controlled substances while holding a position requiring the performance of a safety-sensitive function

4.533 Refusal to submit to required testing

4.534 Permitting a subordinate employee to perform or continue to perform safety-sensitive functions when the supervising employee has actual knowledge that a driver has engaged in conduct prohibited by 4.531-4.533 above.

#### **4.54 Employee Testing**

Employees in positions that require a commercial drivers' license may be required to submit to testing to determine the presence of illegal drugs or alcohol under the following circumstances:

4.541 when performing safety sensitive functions and 1) involved

in an on-the-job driving accident that results in the death of a person or that 2) results in a citation to the employee under state or local law for a moving traffic violation arising out of the accident and any vehicle requires towing from the accident scene or any involved person requires treatment away from the accident scene. An employee in such an accident is required to report it as soon as possible to a supervisor;

4.542 when observed using alcohol or illegal drugs while on duty  
requiring the performance of safety-sensitive functions;

4.543 when a supervisor who has participated in a program that provides training in the recognition of the physical appearance and behavior of persons under the influence of alcohol or illegal drugs observes an employee exhibiting such appearance and behavior during, just preceding or just after the period of the work day that the employee is performing in the safety-sensitive functions;

4.544 when selected pursuant to a scientifically valid random  
process determined by The University;

4.545 if allowed to return to duty in a position described in  
Section 4.5 after a violation of drug or alcohol rules;

4.546 if allowed to return to duty for a position described in

Section 4.5 and has been identified by a substance abuse professional as needing assistance in resolving problems with drug or alcohol abuse. Such employees will be subject to a minimum of six unannounced follow up drug or alcohol tests over the first 12 months following his or her return to duty.

#### **4.55 Refusal to Submit to Test**

By continuing employment with The University, employees have consented to The University's adoption of this Drug and Alcohol Testing program. The University will secure a consent form signed by the employee to be tested. An employee holding a position that requires a commercial drivers' license who refuses to consent and submit to a test when requested under any of the circumstances provided for in Section 4.53 will be subject to disciplinary action including termination pursuant to The University's Procedures for Discipline and Dismissal of Employees. Refusal to submit includes failure to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this policy, failure to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part, engaging in conduct that clearly obstructs the testing process, and or leaving the scene of an on-the-job accident.

#### **4.56 Positive Test**

Employees holding a commercial drivers' license who are tested and receive a positive test result will be immediately removed from safety-sensitive functions. The supervisor and the Director of Human Resources will meet with each employee who tests positive and inform the employee of the test result. Based upon the information available after the meeting with the employee, the supervisor and Director shall determine whether:

4.561 to proceed to impose appropriate disciplinary action

(keeping in mind any minimum penalties as may be required by federal or state law)  
pursuant to The University's Procedures for Discipline and Dismissal of Employees;  
and/or

4.562 to offer the employee the opportunity to participate in and

satisfactorily complete at the employee's expense an appropriate employee assistance program or rehabilitation program for alcohol and/or drug abusers as a condition of continued employment. An employee who chooses to participate in such a program must

be informed that The University will pursue appropriate disciplinary action if the employee does not satisfactorily complete the prescribed program.

4.563 to allow the employee who has tested below 0.04 for alcohol, with no concurrently positive drug test, to return to work after at least a 24-hour period.

#### **4.57 Urinalysis Procedure**

In order to assure individual privacy without compromising the integrity of the test result, The University will utilize Department of Health & Human Services approved labs and the mandatory Guidelines for Federal Workplace Drug Testing Programs and the Procedures for Transportation Workplace Drug Testing for tests pursuant to this Policy.

Those Guidelines are published in 49 CFR 40; 49 CFR 382 (See also Volume 53 of the Federal Register, pages 11979-11989 and Volume 59 of the Federal Register, page 7505.)

The Guidelines generally provide for specimen collection procedures, chain of custody procedures, testing procedures and documentation procedures. Copies of the Guidelines may be obtained from the Office of Human Resources. Any testing requested by an employee will be done at the employee's expense.

#### **4.58 Alcohol Testing**

Alcohol testing will be conducted either on University premises or at a specimen collection site. The University will utilize the procedures for transportation workplace drug and alcohol testing programs for alcohol tests pursuant to this Policy. Those procedures are published in 49 CFR 40. (See also Volume 59 of the Federal Register, pages 7340-7376.)

The Guidelines generally provide for specimen collection procedures, chain of custody procedures, testing procedures and documentation procedures. Copies of the Guidelines may be obtained from the Office of Human Resources. Any testing requested by an employee will be done at the employee's expense.

#### **4.59 Records**

4.591 Confidentiality. Subject to the applicable provisions of the Texas Public Information Act, all information from an applicant's or an employee's drug and alcohol tests is confidential to the extent required by law. Records will be maintained in a secure manner, so that disclosure of information to unauthorized persons does not occur.

4.592 Maintenance. University Record Retention Schedules will be reviewed to ensure that at a minimum, records are maintained in accordance with the following schedule:



4.5921 Verified positive controlled substance test results and alcohol test results indicating an alcohol concentration of 0.02 or greater; documentation of refusals to take required tests; calibration documentation; evaluations and referrals - 5 years;

4.5922 collection and training records - 2 years;

4.5923 negative or cancelled tests - 1 year.

4.5924 alcohol test results indicating concentration less than 0.02 - 1 year.

#### **4.510 Reporting**

The University will submit reports in accordance with Federal Regulations regarding this alcohol and drug misuse prevention program.

#### **4.511 Inquiries**

Inquiries related to this policy may be directed to the Chief Business Officer.

## 5. Smoking and Tobacco Free Policy

### Purpose

It is the policy of The University of Texas of the Permian Basin to promote the health, well-being and safety of students, faculty, staff and visitors while on campus. Tobacco use and second hand smoke have been identified by the Surgeon General to be the cause of preventable diseases. Use of cigarettes and other tobacco products lead to disease and death. In addition to causing direct health hazards, smoking and smokeless tobacco use contribute to institutional costs including fire damage, cleaning and maintenance costs and costs associated with employee and student absenteeism, health care and medical insurance.

The purpose of this policy is to establish requirements for the prohibition of tobacco use and smoke products on the property of the University.

### Policy

The use of tobacco as well as smoking or use of any smoking device, by students, faculty, staff and visitors is prohibited at all times on University owned or leased property. In doing so, all areas of the University are designated as "Tobacco Free."

### Definitions

- A. University Property is defined as both interior and exterior space within the boundaries of all University owned, leased, operated, occupied or controlled property, including, but not limited to, all enclosed or partially enclosed areas such as walkways, breezeways, bus shelters, sidewalks, parking lots and parking structures. For purposes of this policy, University property all includes all University vehicles including buses, vans, and all other University vehicles, whether leased or owned, and all indoor and outdoor athletic facilities, whether leased or owned. University property does not include personal vehicles, provided that:
- 1) the windows are closed,
  - 2) all tobacco waste products are properly disposed of, and
  - 3) there is no prohibitions under the terms of a grant or sponsored research (including CPRIT) requirements.
- B. Tobacco Products is 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, chewing tobacco or all other tobacco products). (Note: Medications with controlled amounts of nicotine that are used to aid quitting smoking are not considered tobacco products. A list of these medications can be found at the [smokefree.gov](http://smokefree.gov) website. (link)

### **Notification**

Notification of this policy shall be provided through electronic media; appropriate signage at entrances to the campus and major buildings; new student, faculty and staff orientations; and guides and handbooks. This policy applies to all grounds and facilities, whether or not signs are posted. Organizers and attendees at public events, such as conferences, meetings, public lectures, social events, cultural events and sporting events using University facilities will be required to comply with this policy. Organizers of such events are responsible for communicating the policy to attendees and for enforcing this policy.

### **Advertising and Sales**

The University prohibits the advertising, sale or free sampling of tobacco products, smoking and/or smoking devices on campus.

### **Gifts**

No office, department or organization associated with the University may accept gifts or sponsorships from tobacco related companies.

### **Resources for Students and Employees**

The University is committed to supporting all students and employees who wish to discontinue use of tobacco products. The [Counseling Center](#) will provide support to students who wish to discontinue tobacco use. Faculty and staff may consult with the Counseling Center and/or [Human Resources](#) for services regarding tobacco use prevention and cessation. Referral to cessation services is encouraged.

### **Exceptions to Policy**

Limited and appropriate individual exceptions may be considered by the president of the institution or by the president's designee who, in considering whether to grant the exception, will review any sponsored research requirements and ensure that the exception is in support of the mission of the institution.

### **Enforcement**

Members of the University community are empowered to respectfully inform others about the policy. Any individual who believes that there has been a violation of this procedure may invoke the following actions:

- A. The individual may attempt to resolve the problem informally by requesting that the individual comply with the policy.
- B. If direct appeal fails and the behavior persists, the individual should contact the Office of Human Resources for concerns regarding employee tobacco usage or the Office of the Senior Associate Vice President for Student Services for student non-compliance with this policy.
- C. Violations could result in referral to the appropriate university officials for disciplinary action in accordance with established student, staff and/or faculty codes of conduct and procedures. Repeat offenses by the same person shall be dealt with through established administrative/disciplinary policies and procedures.

[Student Conduct and Discipline procedures](#)  
[Employee Disciplinary Procedures](#)

**Relevant Federal and State Statutes and Rules**

[25 Texas Administrative Code, Part II, Section 703.20](#)

[Texas Penal Code 48.01](#) – Smoking Tobacco

**Relevant UT System**

The University of Texas System Board of Regents' *Rules and Regulations*, [Rule 80111](#)

**Dates Approved and Amended**

Effective August 15, 2016

## **6. AIDS, HIV and HEPATITIS B POLICY**

### **6.1 General**

The University of Texas of the Permian Basin recognizes Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) as serious public health threats and is committed to encouraging an informed and educated response to issues and questions concerning these infections.

### **6.2 Purpose, Scope, and Definitions**

#### 6.21 Purpose

The purpose of this policy is to provide guidance for The University of Texas of the Permian Basin in complying with statutes concerning acquired immune deficiency syndrome, human immunodeficiency virus, and hepatitis B virus. In addition, the medical, educational, legal, administrative, and ethical issues related to specific situations involving persons with HIV or HBV infections in the following areas are addressed:

- 6.211 Administrative policies;
- 6.212 Residence life;
- 6.213 Health education;
- 6.214 Testing for HIV or HBV infection;

6.215 Confidentiality of information related to persons with AIDS, HIV or HBV infection;

and

6.216 Patient care.

### 6.22 Scope

This policy is applicable to students, faculty, and employees of The University of Texas of the Permian Basin and shall be made available to students, faculty, and staff members by its inclusion in the student, faculty and personnel guides if practicable, or by any other method. All catalogs should state that the educational pamphlet is available to students.

### 6.23 Definitions

**Institutional Committee:** A task force or institution-wide committee to oversee the development and implementation of educational programs related to HIV and HBV, and to advise the

administration on policies regarding HIV and HBV. It is suggested that the Committee include, as a minimum, representation from the faculty, the student body, and administrative areas such as housing services, health services, counseling services, and food services.

## 6.3 General Policies

### 6.31 Admissions to Schools

The existence of HIV or HBV infection should not be considered in admissions decisions unless current scientific information indicates required academic activities will likely expose others to a risk of transmission.

### 6.32 Residential Housing

Residential housing staff will not exclude HIV-infected or HBV-infected students from University housing and will not inform other students that a person with HIV or HBV infection lives in University housing.

### 6.33 Employment

The existence of HIV or HBV infection will not be used to determine suitability for employment by The University unless the position requires performance of exposure prone procedures.

### 6.34 Class Attendance

A student with HIV or HBV infection should be allowed to attend all classes without

restrictions, as long as the student is physically and mentally able to participate, perform assigned work, and poses no health risk to others.

#### 6.35 Access to Facilities

A person with HIV or HBV infection should not be denied access to The University because of HIV or HBV infection.

#### 6.36 Testing for HIV and HBV Infection

##### 6.361 Mandatory Testing:

No programs for mandatory HIV or HBV testing of employees, students, or patients will be undertaken without their consent unless authorized or required by law or court.

##### 6.362 Informed Consent for HIV Testing:

Unless otherwise authorized or required by law, no HIV test should be performed without informed consent of the person to be tested.

Consent will be written on a separate form, or the medical record will document that the test has been explained and consent has been obtained. The consent form will state that post-test counseling will be offered or the medical record will note that the patient has been informed that post-test counseling will be offered.

##### 6.363 Reporting of Test Results

HIV and HBV test results will be reported in compliance with all applicable statutory requirements, including the Communicable Disease Prevention and Control Act, Texas Health and Safety Code, 81.001.

##### 6.364 Qualifying for Workers' Compensation Benefits

State law requires that an employee who bases a workers' compensation claim on a work related exposure to HIV must provide a written statement of the date and circumstances of the exposure and document that within ten (10) days after the exposure, the employee had a test result that indicated absence of HIV infection. An employee who may have been exposed to HIV while performing duties of employment may not be required to be tested, but refusal to be tested may jeopardize Workers' Compensation benefits.

##### 6.365 Testing Following Potential Exposure to HIV or HBV

The University will develop guidelines and protocols for employees and students who have been exposed to material that has a potential for transmitting HIV or HBV as a result of employment or educational assignments. Testing of employees or students exposed to such material should be done within ten (10) days after exposure and should be repeated after one (1) month. Testing for HIV also should be done after three (3) and six (6)

months. These guidelines should follow TDH, U.S. Public Health Service, and CDC guidelines.

In cases of exposure of an employee or student to another individual's ("Individual" in this paragraph) blood or body fluid, The University, at the institution's expense, may test that Individual for HIV and HBV infection with or without the Individual's consent, provided that the test is performed under approved institutional guidelines and procedures that provide criteria for testing and that respect the rights of the person being tested. This includes post-test counseling. If the test is done without the Individual's consent, the guidelines must ensure that any identifying information concerning the Individual's test will be destroyed as soon as the testing is complete and the person who may have been exposed is notified of the result. Test results will be reported in compliance with all applicable statutory requirements.

#### 6.37 Confidentiality of Records

Except where release is required or authorized by law, information concerning the HIV status of students, employees or patients and any portion of a medical record will be kept confidential and will not be released without written consent. HIV status in personnel files and Workers' Compensation files is to remain confidential and have the confidentiality status of medical records.

#### 6.38 Education

##### 6.381 General Employee Educational Pamphlet

The University will provide each employee an educational pamphlet about methods of transmission and prevention of HIV infection. The pamphlet will be the TDH educational pamphlet or a pamphlet based on the model developed by the TDH. The pamphlet will be provided to new employees on the first day of employment and to all employees annually.

##### 6.382 Information On Prevention Provided to Students

6.3821 The University will routinely offer students programs based on the model HIV education and prevention program developed by the TDH and tailored to the students' cultural, educational, language, and developmental needs.

6.3822 Each student health center should provide information on prevention of HIV infection including:

- the value of abstinence and long-term mutual monogamy,
- information on the efficacy and use of condoms, and
- state laws relating to the transmission of HIV and to conduct that may

result in such transmission.

6.3823 The employee educational pamphlet will be available to students on request.

6.3824 Guidelines For Laboratory Courses

Laboratory courses requiring exposure to material that has potential for transmitting HIV or HBV will adopt safety guidelines for handling such material and distribute these guidelines to students and staff prior to their coming in contact with such material.

6.39 Unemployment Compensation Benefits

The University will inform employees via employee and faculty guides or other appropriate methods that state law provides that an individual will be disqualified for unemployment compensation benefits:

- if the Texas Workforce Commission (TWC) finds that the employee left work voluntarily rather than provide services included within the course and scope of employment to an individual infected with a communicable disease, including HIV. This disqualification applies if the employer provided facilities, equipment, training, and supplies necessary to take reasonable precautions against infection; or
- if the TWC finds that the employee has been discharged from employment based on a refusal to provide services included within the course and scope of employment to an individual infected with a communicable disease, including HIV. This disqualification applies if the employer provided facilities, equipment, training and supplies necessary to take reasonable precautions against infection.

6.310 Health Benefits

No student or employee will be denied benefits or provided reduced benefits under a health plan offered through The University of Texas of the Permian Basin on the basis of a positive HIV test result.



Human Resources  
Sick Leave Pool Policy  
Approved

## **7. Student Right-to-Know and Campus Security Act**

Refer to Part V (Student Life and Activities), Section 3 of the Handbook of Operating Procedures.

## **8. Sick Leave Pool Policy**

### **8.1 Policy**

Employees of The University of Texas of the Permian Basin are eligible to use time in the sick leave pool if, because of a catastrophic injury or illness, the employee has exhausted all the sick leave and vacation leave that the employee is otherwise entitled

### **8.2 Purpose**

To provide for the alleviation of the hardship caused to an employee and the employee's family if a catastrophic illness or injury forces the employee to exhaust all leave time earned by that employee and to lose compensation from The University.

### **8.3 Definitions**

8.31 A catastrophic illness or injury is a severe condition or combination of conditions affecting the mental or physical health of the employee or the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that requires the employee to exhaust all leave time and compensation time from The University for the employee.

8.32 Employee means a regular employee of one of the UT System institutions who is employed to work at least 20 hours per week for at least four and one-half months.

8.33 Immediate family is defined as those individuals related by kinship, adoption, marriage or foster children who are so certified by the Texas Department of Human Services who are living in the same household or if not in the same household are totally dependent upon the employee for personal care services on a continuing basis.

8.34 Licensed practitioner means a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his/her license.

8.35 Pool Administrator is the Director of the Office of Human Resources.

8.36 Sick leave pool or —pool means the accumulated sick leave donated by employees for utilization in accordance with this Policy.

#### **8.4 Eligibility**

(Edited 2/5/98)

8.41 All employees eligible to accrue sick leave may apply to use sick leave from the sick leave pool subject to the other provisions of this policy.

8.42 An employee may apply only once per fiscal year unless the maximum of 90 days was not received.

8.43 An employee does not have to contribute to the pool in order to apply to use leave from the pool, and no payback is required by employees granted pool sick leave.

#### **8.5 Sick Leave Pool**

8.51 An employee must submit a transfer form to the Pool Administrator to contribute time to the sick leave pool.

8.52 Employees may transfer to the sick leave pool, in eight hour day increments, as many days of sick leave from their accrued sick leave time earned as they wish.

8.53 Employees may not designate a specific person to receive their contribution.

8.54 Applications approved by the Pool Administrator will be credited to the sick leave pool and the corresponding amount will be deducted from the employee's accrued sick leave.

8.55 Employees will be encouraged to contribute to the sick leave pool at termination.

#### **8.6 Withdrawal of Sick Leave**

8.61 Employees may apply to the Pool Administrator for permission to draw time from the sick leave pool by using the form prescribed by the administrator. The application must be accompanied by a statement from the licensed practitioner who treated the illness or injury.

8.62 Applications to use pool leave will be processed on a first-come, first-serve basis.

- 8.63 An eligible employee may not draw time from the sick leave pool in an amount that exceeds the lesser of one-third of the total amount of time in the pool or 90 days.
- 8.64 An employee is eligible to withdraw from the sick leave pool if the Pool Administrator finds that the employee has exhausted all accrued leave because of a catastrophic illness or injury. The Pool Administrator shall determine the exact amount of time that an employee may draw. The Pool Administrator's decision is final.
- 8.65 The employee may use sick leave assigned from the pool in the same manner as sick leave accrued pursuant to Article V of the General Appropriations Act and shall be treated in the same manner and shall be entitled to accrue the same benefits as an employee who uses such sick leave.
- 8.66 When an employee using sick leave pool hours returns to duty, any unused hours revert back to the pool.
- 8.67 The estate of a deceased employee is not entitled to payment for unused sick leave acquired by that employee from the pool.

Approved September 27, 1995

## **9. Employment of Noncitizens**

### **9.1 General**

Faculty appointments are based on qualifications and performance. Alien status per se constitutes neither an advantage nor a deterrent to such appointments. However, prior to employment with The University Texas of the Permian Basin, it will be necessary for alien faculty to provide the Office of Human Resources with the documentation required by the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990 to verify eligibility and provide evidence of employment authorization. The purpose of this policy is to preclude the unlawful hiring of aliens who are not authorized to work in the USA. Appointment is conditioned upon meeting the requirements of the Act.

Various laws and regulations, enforced by several federal agencies govern the employment of aliens. The process to certify an alien for employment in the United States is complex and may require legal assistance.

### **9.2 Federal Law**

The United States Government prohibits the employment of aliens unless:

- 9.21 There are not sufficient United States workers who are able, willing, qualified, and available to work; and,
- 9.22 the employment of such aliens will not adversely affect the wages and working conditions of similarly employed US citizens and permanent residents.

### **9.3 Conversion of Visa Status**

The University of Texas of the Permian Basin does not provide individual legal advice to employees or prospective employees. Immigration issues require specialized legal advice as well as preparation of legal documents which is the responsibility of the employee. The University's participation will be limited to the issuance of a letter of intent to hire to the applicant's attorney.

### **9.4 Offers of Employment**

Offers made by the College or Schools or departments contrary to this Statement of Policy will not be honored by The University of Texas of the Permian Basin. Colleges, Schools and departments are also cautioned no to make statements concerning the likelihood of obtaining Exchange Visitor or Permanent Resident status.

Human Resources  
Student Right-to-Know and Campus Security Act  
Approved September 27, 1995  
Equal Opportunity Employment and Affirmative Action  
Approved September 27, 1995

## **10. Equal Opportunity Employment and Affirmative Action**

As an Equal Opportunity and Affirmative Action, , The University of Texas of the Permian Basin acknowledges its obligation and stresses its commitment to a policy of recruitment of faculty and staff without regard to race, national origin, gender, age, disability, veterans status, religious affiliation, or sexual orientation.

Human Resources  
Sick Leave Pool Policy  
Approved

Appointment of Relatives  
Approved September 27, 1995

## **11. Appointment of Relatives**

See Rule 30106 of The University of Texas System Board of Regents' Rules and Regulations.

## **12. Conflicts of Interest, Conflicts of Commitment, and Outside Activities**

12.1 Applicability. This policy applies to all UT Permian Basin employees.

(Regents' Rule 30104, UTS Policy180)

12.2 Purpose. This policy is intended to protect the credibility and reputation of the U.T. System, of UT Permian Basin and of members of the faculty and staff by providing a transparent system of disclosure, approval, and documentation of employee activities outside U. T. that might otherwise raise concerns about conflicts of interest or conflicts of commitment. The policy also serves the purpose of ensuring compliance with State ethics laws and Regents' Rules. Finally, the policy is intended to provide the framework for rules and procedures that will clearly delineate permissible outside activities.

12.3 Primary Responsibility. The primary responsibility of employees of UT Permian Basin is the accomplishment of the duties and responsibilities assigned to one's position of appointment. (Regents' Rule 30104, Sec. 1)

12.4 Outside Activities.

- (a) Regents' Rule 30104 permits U. T. employees to engage in outside work or activity, so long as the work or activity complies with the requirements of the Rule and does not violate State laws or U. T. System or UT Permian Basin rules or policies governing the conduct of employees, including ethics standards and provisions prohibiting conflicts of interest, conflicts of commitment, and the use of State resources.
- (b) Certain outside activity clearly enhances the mission of UT Permian Basin and/or provides important elements of faculty or staff development related to their UT Permian Basin responsibilities. To that end, certain activities are encouraged (See Sec 7.3(a) below).

12.5 Conflicts of Interest and Conflicts of Commitment Prohibited.

UT Permian Basin employees may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the employee's duties in the public interest. (Regents' Rule 30104, Sec. 3)

Activities on behalf of outside entities or individuals must not interfere with a UT Permian Basin employee's fulfillment of his/her duties and responsibilities to the University. Such conflicts of commitment may arise



regardless of the location of these activities (on or off campus), the type of outside entity (individual, for-profit, not-for-profit, or government), or the level of compensation (compensated or non-compensated.) (Regents' Rule 30104, Sec. 4)

#### 12.6 Disclosure and Approval (Regents' Rule 30104, Sec. 5)

12.6.1 Each full-time member of the faculty and full-time member of the administrative and professional staff must:

- (a) annually disclose a description of the nature and extent and the range of compensation of any outside employment or other compensated activity, and any other outside activity that may give the appearance of a conflict of interest or a conflict of commitment to a reasonable person and any substantial interests in business entities that may give the appearance of a conflict of interest to a reasonable person, or state in writing that they have not engaged in such activity and do not have any such interests;
- (b) annually disclose a description of the nature and extent of all outside board service and the range of compensation, if any;
- (c) annually disclose gifts over \$250 to you or your immediate family members that may give the appearance of a conflict of interest to a reasonable person. Do not include gifts received from: your parent, child, sibling, grandparent, or grandchild; your spouse and spouse of anyone mentioned above, or the parent, child sibling, grandparent, or grandchild of your spouse.
- (d) disclose additional outside activities that may reasonably appear to create conflict of interest or conflict of commitment as they arise;
- (e) disclose the nature and extent any outside activity of immediate family members that may reasonably appear to create a conflict of interest and any substantial interests of immediate family members in business entities that may reasonably appear to create a conflict of interest; and
- (f) obtain prior approval and/or enter into an approved management plan before engaging in activities or interests included in Section 10.6.1(a), 10.6.1(b), 10.6.1(c) above, except as permitted by Section 9, below.

12.6.2 The annual disclosure statement shall report activity that has been carried out over the past year (retrospective component) and future activities that are anticipated for the upcoming year (prospective component), and shall include the amount of activity and

an estimate of time devoted to such activity and the range of compensation, if any. Additional activities that may reasonably appear to create a conflict of interest or a conflict of commitment are to be disclosed as they arise.

<http://www.utpb.edu/facultystaff/universityforms/> See “President’s Office” for Full time Faculty and Administrative & Professional Staff Form

(a) Outside activity reported under HOP II Section 4.11, (Disclosure of Significant Financial Interests and Management of Reporting of Financial Conflicts of Interest in Research) need not be redisclosed.

(b) When in doubt. In determining whether activity should be disclosed, the individual should resolve the doubt in favor of disclosure.

(c) Electronic database. Disclosure of outside activity, documentation of requests for approval, and subsequent approvals required above, shall be maintained for all faculty and administrative and professional staff in an accessible and searchable electronic database.

#### 12.6.3 Part-time Faculty and Part-time Administrative and Professional

Staff. Unless such activity has already been reported under HOP II Section 4.11 (governing disclosure of financial conflicts of interest in research), each part-time member of the faculty and each part-time member of the administrative and professional staff must disclose the nature and extent of any outside activity that may reasonably appear to create conflict of interest and obtain prior approval before engaging in such activity, except as permitted at Sec. 9, below and to disclose any substantial interest in a business entity that may reasonably appear to create a conflict of interest. <http://www.utpb.edu/faculty-staff/university-forms/> See “President’s Office” for Part-time Faculty and Administrative & Professional Staff Form Revised January 31, 2013

#### 12.7 Guidelines for reviewing and approving requests to engage in outside activity.

12.7.1 Approval Authorities. The President has appointed the following individuals to review and make recommendations to the President under this policy:

- (a) For members of the faculty: the Provost
- (b) For administrative and professional staff, including department chairs and deans: the employee’s immediate supervisor and relevant Vice President
- (d) For executive officers: none – President is the reviewer
- (e) The President: the UT System Executive Vice Chancellor

### 12.7.2 Faculty Time

Members of the faculty have flexibility in using their time to prepare for teaching and engage in research and other scholarly activity. Other responsibilities, such as presenting lectures, being available to meet with students, and participating in university committees, have more rigid time demands. During the academic term in which a faculty member holds a full-time appointment, the faculty member must attend to all their duties and responsibilities and meet the minimum academic workload requirements, but may be permitted to engage in no more than an average of one day per week (20%) of approved outside activity during each long semester.

### 12.7.3 Categories of Outside Faculty Activity

(a) Some activity is so integral to the mission of UT Permian Basin that it is encouraged, so long as the activity does not reasonably appear to create a conflict of interest and the amount of time committed does not interfere with faculty member's UT Permian Basin duties and responsibilities. This may include activities such as the following:

- Serving on a federal, state, or local government agency committee, panel, or commission.
- Acting in an editorial capacity for a professional journal.

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- Reviewing journal manuscripts, book manuscripts, or grant or contract proposals.
- Attending and presenting talks at scholarly colloquia and conferences.
- Developing scholarly communications in the form of books or journal articles, movies, television productions, and similar works, even when such activities result in financial gain, consistent with intellectual property and other applicable U. T. System and institution policies and guidelines.
- Serving as a committee member or as an officer of a professional or scholarly society.
- Serving as a board member or volunteer for a community or regional organization.

- (b) Another category of outside faculty activity that, when approved, is permitted and can be encouraged is that which does not reasonably appear to create a conflict of interest, does not interfere with the faculty member's UT Permian Basin duties and responsibilities, and clearly contributes to the mission of UT Permian Basin or provides important elements of faculty professional development related to their UT Permian Basin duties and responsibilities. This includes providing expert testimony, providing consulting services, professional/clinical practice, and serving on a board of directors.
- (c) Faculty members may also engage in activity that does not necessarily contribute to the mission of UT Permian Basin or provide elements of faculty professional development related to their UT Permian Basin duties and responsibilities, so long as it does not appear to create a conflict of interest to a reasonable person or interfere with the faculty member's UT Permian Basin duties and responsibilities. Any such activity must take place only on non-UT time and requires disclosure and approval.

#### 12.7.4 Accounting for Outside Board Service

- (a) Recognizing the benefit to be derived by UT Permian Basin from outside board service, and after thorough consideration of the time commitment that might be involved, time spent on uncompensated service on nonreligious boards, other than for reimbursement of usual and customary expenses, may be deemed to be of service to the UT Permian Basin and may not require the use of a person's own time, with prior disclosure and approval before engaging in such service.
- (b) Service on an outside board for which the employee is compensated, and any service to a religious organization whether or not compensated, must be on the person's own time. If the service occurs during normal office hours, the person must use vacation time, compensatory time, or other appropriate leave while providing the service. The service should be without cost to UT Permian Basin; and, except for service to religious organizations, must be disclosed and approved prior to engaging in such service.
- (c) Participation on the board of a municipality; local religious congregation; neighborhood association; public, private or parochial school; youth sports or recreation league; affinity group such as the local orchid society or model train collectors club; and other similar outside boards on which the

service is primarily personal rather than professional in nature and does not require time away from UT Permian Basin responsibilities, is permitted without the requirement of disclosure and advance approval if it does not create a conflict of interest or conflict of commitment or the appearance of a conflict of interest or conflict of commitment.

#### 12.7.5 Substantial Interest in a Business Entity

Members of the faculty and the administrative and professional staff must annually report any substantial interest the individual or an immediate family member has in a business entity that might appear to create a conflict of interest. For purposes of this policy, a substantial interest in a business entity means;

- (1) a controlling interest;
- (2) ownership of more than 10 percent of the voting interest;
- (3) ownership of more than \$15,000 of the fair market value;
- (4) a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gain; or
- (5) service as an officer.

Does not include investments in mutual funds.

#### 12.7.6 Management Plans.

Management plans must be in place for all faculty and administrative and professional staff for outside activities that may create a conflict of interest before activity begins. Management plans will be developed by the relevant Vice President and approved by the President.

12.8 Appeals. Individuals whose request for approval of outside activity is denied may request that the denying authority reconsider the decision and provide an explanation in writing. If the individual remains unsatisfied with the decision, he or she may access standard grievance procedures (i.e. for faculty see HOP I, Section 11, and for staff see HOP III, Section 1.3).

12.9 Prospective and Retrospective Approval. In rare instance, outside activity may be approved retrospectively when the individual is called upon to assist in an emergency or urgent situation where it would be impossible or unreasonable to obtain advance approval. In such

cases, the activity must be fully disclosed and approval sought from the appropriate authority as soon as reasonably possible.

Some activity may also be prospectively approved, for up to one year, when an individual describes to the approving authority as fully as reasonably possible the general nature and extent of anticipated, but not confirmed, outside opportunities.

In any event, whether previously approved or not, employees should ensure they notify their chair, dean, or supervisor in advance when they will be missing specific responsibilities.

12.10 Confidential Outside Activity. If an individual wishes to engage in an activity for which some or all of the relevant information is confidential, the approving authority may nonetheless approve the activity without requiring full written disclosure upon satisfaction that there is a compelling reason to treat the information confidentially and the activity is otherwise fully compliant with this policy and all other applicable laws and UT Permian Basin and U. T. System policies.

12.11 Rescinding Approvals. An approving authority may rescind an approved outside activity upon receipt of information indicating that the activity is not consistent with this policy or any applicable law or UT Permian Basin or U. T. System policy. The individual for whom the activity may be rescinded shall be given notice of the information and an opportunity to respond. Approved September 27, 1995 Revised January 31, 2013

12.12 Noncompliance. Noncompliance with this policy may subject one to discipline in accord with applicable procedures up to and including termination of employment.

12.13 Use of University Property. UT Permian Basin property may only be used for State purposes appropriate to UT Permian Basin's mission. (Regents' Rule 30103 Sec. 8) Use of UT Permian Basin property for any outside activity must be explicitly approved in writing by the approving authority.

12.14 Education and Training. UT Permian Basin will develop and deliver training to assist those responsible for reviewing outside activities and financial interests and making recommendations to the President. UT Permian Basin will annually distribute this policy and related HOPs and disclosure forms to all employees.

12.15 Definitions

**Administrative and Professional Staff.** Those executive, administrative and professional employees who have been determined to be exempt from the Fair Labor Standards Act (FLSA) and are, therefore, not entitled to overtime pay. In addition, the University President may designate other staff, that are not FLSA exempt, but that are deemed appropriate for inclusion in the transparent system of disclosure, approval, and documentation of outside employee activities set forth in this policy.

**Compensation.** Any form of benefit including but not limited to salary, retainer, or promised, deferred, or contingent interest.

**Conflict of Commitment.** A state in which a UT Permian Basin employee's activities on behalf of an outside association, or an activity, that could directly or significantly interfere with the employee's fulfillment of their institutional responsibilities.

**Conflict of Interest.** A significant outside interest of a UT Permian Basin employee or one of employee's immediate family members that reasonably appears to be related to the employee's institutional responsibilities and that could directly or indirectly significantly affect the employee's performance of those responsibilities.

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**Immediate Family Members.** Include:

- (a) a spouse;
- (b) a dependent child or stepchild or other dependent, for purposes of determining federal income tax liability during the period covered by the disclosure statement; and
- (c) a related or non-related, unmarried adult who resides in the same household as the individual and with whom the individual is financially interdependent as evidenced, for example, by the maintenance of a joint bank account, mortgage, or investments.

**Nature and Extent.** Shall include a description of the activity, the time commitment, and the anticipated length of time the commitment is expected to continue.

**Range of Compensation.** Includes a range of outside compensation as follows:

- (1) \$1 - \$4,999;
- (2) \$5,000 - \$24,999;
- (3) \$25,000 - \$49,999;
- (4) \$50,000 - \$99,999;
- (5) \$100,000 - \$249,999;
- (6) \$250,000 - \$499,999;
- (7) \$500,000 - \$999,999;
- (8) \$1,000,000 and over, or

- (9) if equity, \_\_\_\_\_ equaling \_\_\_% of the fully diluted value of the company at time of grant
- (10) None

**Substantial Interest in a Business Entity.** For purposes of this policy, means:

- (1) a controlling interest;
- (2) ownership of more than 10 percent of the voting interest;
- (3) ownership of more than \$15,000 of the fair market value;
- (4) a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains; or
- (5) service as an officer.

Does not include investments in mutual funds.

## **12.16 Guidelines Pertaining to Consulting and Similar Fees, and Dual Employment**

### 12.161 Dual Employment and Payment of Consulting and Similar Fees to State Employees

#### 12.161.1 Dual Employment

Regental approval is required by law before The University may simultaneously employ an individual who holds non-elective public office or is employed by another governmental agency. Approval cannot be given unless such dual employment is of benefit to the State or is required by-law and if there is no conflict of interest involved.

#### 12.161.2 Payment of Consulting and Similar Fees for Specific ShortTerm Assignments to Faculty and Staff of Other UT Component Institutions and to Personnel of Other State Institutions and Agencies

12.161.2.1 Faculty and Staff of Other UT Component Institutions Consulting fees and lecture fees, in addition to regularly budgeted salaries, will not be paid by UT Permian Basin for the service of an employee of another institution of The University of Texas System (other than allowable travel reimbursement) unless it is expressly found by the President that it is in the interest of UT Permian Basin and the State of Texas to do otherwise. Such exceptions shall be approved in advance by the President, as well as the president of the institution by whom the consultant or lecturer is employed.

#### 12.161.2.2 Personnel of Other State Institutions and Agencies



Interagency Cooperation Contracts shall be used for such situations insofar as practicable as determined by the President. If an Interagency Contract is not used, such payments may be made under the provisions listed above. The written prior approval of the President and the written approval of the chief administrative officer or agency head of the supplying institution or agency must be obtained. Copies of both of these authorizations shall accompany the payment voucher.

#### 12.162 Involvement in Non-credit Programs

The Division of Continuing Education offers non-credit short courses, seminars, workshops, institutes, and conferences designed for professional development and career enhancement. Taught by U. T. Permian Basin faculty as well as qualified instructors from the community, these programs are supported by the registration fees they generate. Faculty are encouraged to contact the Director of Continuing Education about involvement in non-credit programs.

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Revised January 31, 2013

## **13. Provisions Regarding Employee Leaves**

### **13.1 Leave for Jury Duty**

It is the policy of The University of Texas of the Permian Basin to provide leave consistent with applicable state law for employee service as a juror or as a witness in a judicial proceeding or legislative hearing. No deduction shall be made from the salary or wages of an employee of The University of Texas System who is called for jury service, nor shall the employee be required to account to The University of Texas System for any fee or compensation received for jury service.

### **13.2 Vacation Leave**

Staff employees who are appointed to work twenty hours or more per week and for at least four and one half months or more are eligible to accrue paid vacation leave; however, vacation leave may not be granted until the employee has completed six months of continuous service in a regular employee status, although vacation time will accrue during that period. Once an employee has completed six months or more of continuous State employment that person is eligible to take annual leave as it is earned upon reemployment, or be paid for it upon termination of employment. The Request for Leave form must be submitted to the appropriate supervisor for approval in advance of any leave taken. The Request for Leave form is available on the HR website. Students employed in positions which require student status as a condition of employment are not eligible for vacation leave.

### **13.3 Sick Leave**

Eligible employees will earn sick leave beginning on the first day of state employment and on the first calendar day of each succeeding month of state employment.

Eligible full-time employees, i.e., those who work 40 hours per week, accrue sick leave at the rate of eight hours for each month or fraction of a month of service. Eligible part-time employees, i.e., those who work 21 to 39 hours per week, accrue sick leave on a proportionate basis.

Employees do not earn sick leave when they are in an ineligible status, including leave without pay, for an entire calendar month. An employee who transfers from a leave-eligible status to an ineligible status will, at the time of the transfer, have his or her accrued sick leave balance—frozen. If the employee returns to a leave eligible status, he or she may begin to use the previous sick leave balance and to accrue sick leave.

### **13.4 Emergency Leave including Funeral Leave**

An eligible employee of The University of Texas of the Permian Basin will be granted emergency leave as funeral leave or may be granted emergency leave for other reasons deemed to be for good cause.

#### **13.41 Funeral Leave**

Employees are eligible for funeral leave in the event of a death of an employee's spouse or the employee's or spouse's children, parents, grandparents, grandchildren, brothers, or sisters, an eligible employee shall be granted an emergency leave without loss of regular pay. Emergency leave granted for a funeral may be authorized for a period not to exceed three (3) days.

#### **13.42 Other Emergency Leave**

The chief administrative officer or his or her delegate may make a determination on other reasons for emergency leave when the employee shows good cause for such leave. Examples of such reasons might include a death of a relative other than those described above or the need for a number of days other than those described above. Requests for leave described in this paragraph must be fully documented.

#### **13.43 Eligibility for Emergency Leave**

To be eligible for emergency leave, an employee must be appointed to work at least twenty (20) hours per week for a period of four and one-half months or more in a position that does not require student status.

### **13.5 Other Leave**

Employees who work at least 20 hours per week for a period of four and one half months who are not employed in a position for which the employee is required to be a student as a condition of employment may be eligible for other types of leave as outlined by The Office of Human Resources

### **13.6 Family Medical Leave Act**

The purpose of this policy is to set forth guidelines and procedures to be followed in complying with the Family Medical Leave Act of 1993 (to be referred to in the policy as the —Actll).

Employees of The University of Texas of the Permian Basin are eligible for up to twelve weeks of family leave per year for certain family reasons provided they have been employed for at least twelve months by the State of Texas, and have worked at least 1,250 hours during the twelve month period immediately preceding the commencement of leave.

The Family Medical Leave Policy and Procedures for The University of Texas of the Permian Basin are outlined in the Office of Human Resources.

## **13.7 Military Leave**

### **13.71 Paid Military Leave**

A University of Texas of the Permian Basin employee who is called to active duty or authorized training as a member of the state military forces or any of the reserve components of the United States Armed Forces is entitled to a paid leave of absence from his or her respective duties without loss of time, efficiency rating or performance review rating, vacation time, or salary for not more than fifteen working days in a federal fiscal year (October 1 through September 30.)

### **13.72 Unpaid Military Leave**

The USERRA protects and gives reemployment rights to University of Texas of the Permian Basin employees returning from military service, as long as they have given advance notice to the University of their Military Service Obligation. It provides protection to members of the U.S. Armed Services (including reservists), the Army National Guard, the Air National Guard, and the commissioned corps of the Public Health Service. USERRA applies to voluntary as well as involuntary military service. It does not apply to active duty service in the State of Texas National Guard.

For periods of military service of less than 91 days, USERRA requires that the employee is entitled to the job he or she would have attained if they had not been called for military service, provided the individual is or can become qualified for that job. If the individual is unable to become qualified for a new job after a reasonable effort by the employer, the person is entitled to the job he or she left. Reasonable efforts are actions, including training, that do not cause an undue hardship to the University.

#### **14. Accommodating Disabilities in the Workplace**

It is the policy of The University of Texas of the Permian Basin to provide equal access and opportunity to employees having a known, documented physical or mental impairment as defined under the Rehabilitation Act of 1973, the Americans of Disabilities Act (ADA), or the Texas Commission of Human Rights Act.

The University prohibits discrimination on the basis of disability in all aspects of the application process and the employment relationship. The University of Texas of the Permian Basin will make reasonable workplace accommodation for any employee with a disability that does not constitute an undue hardship to the employer.

## **15. University Holidays**

All employees appointed at least twenty hours per week for a period of four and one-half months or more in positions not requiring student status are entitled to holidays as provided by state law and approved annually by the University of Texas System.

Campuses of the University of Texas system have the authority to establish their own holiday schedule in keeping with the academic schedule, provided the number of holidays does not exceed the number of holidays to which state employees are entitled.

## **16. Work Toward an Advanced Degree**

### **16.1 Enrollment in Courses By University Employees**

Faculty members are eligible to enroll in courses at The University. Enrollment by a full-time faculty member for more than three hours of course work per semester requires the approval of the Vice President for Academic Affairs.

A part-time employee who is at the salary level of an instructor is entitled to register for the following course load: during a long session, six hours if employed three-fourths time, nine hours if employed half time, or twelve hours if employed one-fourth time; during the summer session, four, five or six semester hours respectively.

A regular salaried employee may also register for a thesis course in addition to the course load authorized in the above rules, provided that the thesis course does not require absence from the place of employment.

### **16.2 Work Toward An Advanced Degree by Faculty Members**

The following University of Texas System guidelines concern work toward an advanced degree by faculty members.

A faculty member (tenured or not) may pursue an advanced degree in an institution of The U. T. System other than the one at which he or she is employed or at another institution outside of The U. T. System. Such course work for a full-time faculty member must be approved by the head of the faculty member's department and the appropriate dean or deans and the chief administrative officer of the institution.

A non-tenured faculty member who wishes to pursue an advanced degree on his or her home campus must be recommended by the head of the department in which he or she is employed, and the recommendation must be approved by the appropriate dean or deans and the chief administrative officer of the institution.

A tenured faculty member should not normally pursue an advanced degree on his or her home campus.

Depending upon the amount of course work carried by the faculty member (student), adjustments in salary may be made as deemed appropriate by the head of the institution in which he or she is employed. Any paid faculty development leave for such a purpose should be paid from faculty salaries as permitted under Legislative appropriations or from non-State funds.

In view of the need for self-improvement and increased interdisciplinary education, there should be no prohibition against faculty members taking course work which is not to be applied toward a degree.

The amount of course work allowed a full time faculty member is normally not more than one course during the work day without advance approval of the immediate supervisor.

### **16.3 Work toward an Advanced Degree by University Staff Members**

It is the policy of The University of Texas of the Permian Basin to encourage employees to pursue further study at The University as long as it does not interfere with their employment, and the course load is not excessive. Full-time employees who desire to enroll in a course at The University during normal working hours must receive permission from the budget head and must present an acceptable plan for compensatory work at other times during the week. Normally, an employee may take only one course during normal working hours.



**17. Current Mailing Address**

Each employee shall keep the President or his/her delegate notified of his/her current mailing address and home telephone number. Written notices or communications required by Regents' Rules and Regulations or by procedures developed by The University of Texas of the Permian Basin will be sent by mail to the last address given by the employee.

## **18. Grievance Policies and Procedures**

It is the policy of The University of Texas of the Permian Basin to encourage fair, efficient and equitable solutions for problems arising out of the employment relationship and to meet the requirements of state and federal laws.

### **18.1 Scope of Grievance Policy**

Complaints concerning wage, hours of work, working conditions, performance evaluations, merit raises, job assignments, reprimands or the interpretation or application of a rule, regulation or policy shall not be processed through the Discipline and Dismissal Appeal Procedures. Such complaints will be considered on an informal basis in order to allow prompt correction or explanation of the subject of the complaint.

#### **18.11 Probationary Employees Included**

The complaint of all employees (except faculty) including probationary employees will be considered pursuant to the procedure provided below.

#### **18.12 Retaliation Prohibited**

No employee will be penalized, disciplined or prejudiced for exercising the right to make a complaint or for aiding another employee in the presentation of that complaint.

## **18.2 Procedure for Bringing a Grievance**

### **18.21 Formal Complaint**

The employee shall formally present the complaint to his or her supervisor for discussion, consideration and resolution within five (5) working days from the date of the action that is subject of the complaint. If the supervisor is the subject of the complaint, the employee may address the complaint to the department head or administrative equivalent.

### **18.22 Written Complaint**

If the complaint is not satisfactorily resolved by the supervisor within five (5) working days, the employee may present the complaint in writing to the appropriate department head or administrative equivalent for consideration and action. A written decision will be mailed to the employee within five (5) working days of receipt of the complaint.

#### 18.23 Written Appeal

If the employee is not satisfied with the decision of the department head or administrative equivalent, a written appeal stating why the appealed decision is incorrect may be made to the appropriate dean or administrative equivalent within five (5) working days of the date of the appealed decision; within ten (10) working days of the date of the appeal a written decision will be mailed to the employee.

#### 18.24 Appeal to the Appealed Decision

Complaints not satisfactorily resolved by the dean or administrative equivalent may be appealed in writing to the appropriate vice president or administrative equivalent for the employee's department within five (5) working days of the date of the appealed decision. The appeal shall state why the appealed decision is not correct. Within a reasonable time, not to exceed thirty (30) days following the receipt of the appeal, a written decision shall be mailed to the employee. This decision is final.

#### 18.25 Decisions or Responses Regarding Complaint

The written complaint and all decisions or responses regarding such complaint shall be a part of the personnel file of the employee.

### **18.3. Protection from Retaliation for Reporting Suspected Wrongdoing**

UT Permian Basin is committed to including employees in the process of ensuring that The University operates in an ethical, honest, and unlawful manner. It is the policy of The University to encourage employees to report, or cause to be reported, and to assist in any investigation by persons authorized or responsible for such matters, known or suspected violations of laws, rules, regulations, policies, improper activities.

The University will prohibit unlawful retaliation against employees as a consequence of good faith actions in the reporting of, or the participation in an investigation pertaining to allegations of wrongdoing.

## **19. DISCIPLINE AND DISMISSAL OF CLASSIFIED EMPLOYEES**

### **19.1 Policy and Purpose.**

It is the policy of The University of Texas of the Permian Basin to encourage fair and efficient processes to resolve disputes arising out of the employment relationship and to meet the requirements of State and federal law.

The purpose of this policy is to provide a procedure for the discipline and dismissal of classified employees who are subject to its provisions. Classified employees are at-will employees who serve without tenure. No provision of the policy and procedures that follows shall confer rights to employees that are contrary to the employment-at-will doctrine.

### **19.2 Applicability.**

These policies and procedures are applicable to conduct or job performance of a classified employee that results in a decision to impose a disciplinary penalty of demotion, suspension without pay, or dismissal. It does not apply to:

Institutional police or faculty who are subject to other approved discipline or dismissal procedures;

Suspension with pay pending investigation of allegations relating to an employee;

Decisions not to offer reappointment to persons whose appointment for a stated period of one year or less expires at the end of such period without the necessity of notice of non-renewal as provided in the Regents' Rules and Regulations or the policies of The University of Texas of the Permian Basin;

Administrative and professional employees who are appointed to positions without fixed term and serve at the pleasure of a specific administrative officer;

Persons who are employed in positions that require student status as a condition of employment; or

Dismissal of employees:

- (a) who occupy positions that are dependent upon funding from a specific source and such funding is not received,
- (b) as a result of a reduction in force,
- (c) due to financial exigency,

- (d) during any probationary period of employment,
- (e) who are appointed for a stated period that is less than 180 days,
- (f) who are appointed at a per diem or hourly rate and work on an as needed basis, or
- (g) who have not attained or maintained the necessary clearance, certification or licensure for their position, or
- (h) who have exhausted applicable leave entitlements.

### **19.3. Discipline and Dismissal Policy and Procedures.**

#### 19.31 Employee Standard of Conduct.

Each employee is expected to become familiar with the performance criteria for his or her particular job and with all rules, procedures, and standards of conduct established by the Board of Regents, The University of Texas of the Permian Basin, and the employee's department or unit. An employee who does not fulfill the responsibilities set out by such performance criteria, rules, procedures, and standards of conduct may be subject to adverse personnel action.

#### 19.32 Conduct Subject to Disciplinary Action.

(a) Work Performance.

Work performance is to be judged by the supervisor's evaluation of the quality and quantity of work performed by each employee. Failure of an employee to maintain satisfactory work performance standards or to meet a reasonable and objective measure of efficiency and productivity may constitute grounds for disciplinary action including dismissal.

(b) Unacceptable Conduct.

All employees are expected to maintain standards of conduct suitable and acceptable to the work environment. Disciplinary action, including dismissal, may be imposed for unacceptable conduct. Examples of unacceptable conduct include, but are not limited to:

- (1) falsification of time sheets, personnel records, or other institutional records;
- (2) neglect of duties;

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- (3) smoking anywhere except in designated smoking areas;
- (4) gambling or participating in lotteries or any other games of chance on the premises at any time;
- (5) soliciting or collecting money or circulating petitions on the premises other than within the rules and regulations of the institution;
- (6) bringing intoxicants or drugs onto the premises of the institution, using intoxicants or drugs on the premises at any time, having intoxicants or drugs in one's possession on the premises at any time, or being under the influence of intoxicants or drugs on the premises at any time;
- (7) abuse or waste of tools, equipment, fixtures, property, supplies, or goods of the institution;
- (8) creating or contributing to unhealthy or unsanitary conditions;
- (9) violation of safety rules or accepted safety practices;
- (10) failure to cooperate with supervisor or co-worker, impairment of function of work unit, or disruptive conduct;
- (11) disorderly conduct, harassment of other employees (including sexual harassment), or use of abusive language on the premises;
- (12) fighting, encouraging a fight, or threatening, attempting or causing injury to another person on the premises;
- (13) theft, dishonesty, or unauthorized use of institutional property, including records and confidential information;
- (14) creating a condition hazardous to another person on the premises;
- (15) destroying or defacing institutional property or records or the property of a student or employee;
- (16) refusal of an employee to follow instructions or to perform designated work that may be required of an employee, or refusal to adhere to established rules and regulations; or

- (17) repeated tardiness or absence, absence without proper notification to the supervisor, or absence without satisfactory reason or unavailability for work.

#### 19.33 Discipline Procedures.

The following procedures will be followed when an employee who is subject to this policy is demoted for disciplinary reasons, suspended without pay, or dismissed.

- (a) The supervisor will review the evidence and the proposed disciplinary action with the chief human resources officer or his or her designee.
- (b) Once the supervisor has sought and obtained the concurrence of the chief human resources officer or his or her designee, he or she must then obtain the concurrence of the department head or administrative equivalent to whom he or she reports before proceeding with the proposed disciplinary action.
- (c) The supervisor shall inform the employee in writing of the reasons for the proposed disciplinary action and the facts upon which the supervisor relies. The employee shall be provided with an opportunity to respond to the charges either verbally or in writing within a reasonable time not to exceed two (2) working days and to persuade the supervisor that the grounds for the disciplinary action are mistaken or incorrect before a final decision is made to take disciplinary action.  
This pre-disciplinary notification serves as an opportunity to avoid mistaken decisions to impose discipline and is not intended to definitively resolve the propriety of the disciplinary action being considered.
- (d) If the supervisor is not persuaded by the employee's response that the decision to take disciplinary is incorrect or mistaken, the supervisor will proceed to impose the disciplinary action. The supervisor shall inform the employee in writing of the following:

- (1) whether the disciplinary action is a demotion, suspension without pay or dismissal and its effective date;
- (2) a specific period for a suspension without pay, not to exceed one (1) month;
- (3) the specific incident, conduct, course of conduct, unsatisfactory work performance, or other basis for the disciplinary action;
- (4) any previous efforts to make the employee aware of the need to change or improve work performance or conduct; and
- (5) reference to any relevant rule, regulation, or policy.

#### 19.34 Effect Upon Employee Benefits.

An employee who is demoted or suspended without pay continues to accrue vacation and sick leave, to be covered by group insurance, and to be entitled to other employee benefit programs. If a demotion or suspension without pay is appealed and the appeal of the demotion or suspension is successful, the employee shall be entitled to payment for wages lost as a result of the demotion or suspension. If an appeal of dismissal is successful, the employee shall be reinstated to the same or similar position and shall be entitled to payment of back wages less any unemployment compensation insurance benefits received by the employee after the date of dismissal. Employee benefits such as vacation and sick leave shall be credited back to the date of dismissal.

### **19.4 Procedure for Appeal.**

Disciplinary actions resulting in dismissal, suspension without pay, or demotion may be appealed by the affected employee pursuant to the process set out below by submitting a written request for a hearing to the vice president or administrative equivalent for the employee's department. The request must be made within ten (10) working days following the date of the disciplinary action. The failure of the employee to submit the appeal in a timely manner shall constitute a withdrawal of the appeal. The vice president or administrative equivalent shall, at his or her discretion, either hear the appeal in person or appoint a delegate(s) to hear the appeal. The hearing shall be conducted as soon as practical pursuant to the following procedures.

#### 19.41 Naming of Delegate.

If the vice president or administrative equivalent elects to appoint a delegate(s) to hear the appeal, the name or names will be furnished to the employee as soon as practical after the selection is made. If more than one person is appointed, one of them shall be designated in the notice to the employee to serve as chair.



19.42 Challenges as to Fairness.

An employee may challenge the fairness and impartiality of the vice president or administrative equivalent or an appointed delegate(s). The challenge must be in writing and must clearly state the factual basis for the challenge. A challenge of the vice president or administrative equivalent must be made within five (5) days of the date of the request for a hearing and a challenge of a delegate(s) must be made within five (5) days after the date of the notice appointing the delegate(s). It shall be up to the person challenged to determine whether he or she can serve with fairness and impartiality. If the challenged vice president or administrative equivalent determines that he or she cannot be fair and impartial in the consideration of the appeal, he or she shall appoint a delegate(s) to hear the appeal. If a challenged delegate(s) determines that he or she cannot be fair and impartial in the consideration of the appeal, the vice president or administrative equivalent shall appoint another delegate(s).

19.43 Exchange of Information.

At least five (5) working days prior to the time set for the hearing, the institutional representative for the appeal and the employee shall furnish each other with the names of the witnesses to be called, a summary of their expected testimony, and a copy of each document, record or exhibit to be introduced at the hearing.

19.44 Chair.

The vice president or administrative equivalent or the delegate designated as chair shall preside at the hearing and ensure the order of presentation as well as decide on questions of relevancy. The chair shall also have the discretion to determine the length of the hearing and the form and scope of cross-examination allowed during the hearing. Upon request, the chair may consult with and be advised by counsel during the hearing.

19.45 Right to Representation.

The employee has the right to be represented at the hearing by an attorney or other individual representative. If the employee is represented by an attorney or an individual from an employee organization, the institution may be represented by an attorney from the institution or the Office of General Counsel of The University of Texas System Administration.

19.46 Record of the Hearing.

In all appeal hearings, the institution shall make a tape recording of the hearing and make a copy of the tape available to the employee on request. The tape recording of the proceedings shall be the official record of the hearing.

19.47 Burden of Proof.

The institution shall demonstrate by the greater weight of the credible evidence that the disciplinary action should be sustained. The institution shall present its case first after which the employee shall present his or her case.

19.48 Evidence.

The hearing shall consist of testimony by witnesses called by the institution and the employee, with both parties having the right to cross-examine witnesses. Relevant exhibits may be introduced by either party and the chair shall take notice of the employee's personnel record.

19.49 Witnesses.

Any employee may be asked to appear as a witness for either party. It shall be the duty of an employee requested to testify to do so as to any facts which may be relevant to the appeal. It is the responsibility of each party to assure attendance by its witnesses.

19.410 Notification to Vice President.

The delegate(s) shall deliberate, prepare, and forward written findings and recommendations to the vice president or administrative equivalent within ten (10) working days after the close of the hearing.

19.411 Employee Notification.

The vice president or administrative equivalent shall mail his or her decision to the employee within ten (10) working days following the receipt of the findings and recommendations from the delegate(s).

If the vice president or administrative equivalent has heard the appeal, he or she shall mail a written decision to the employee within ten (10) working days after the close of the hearing.

The decision of the vice-president or administrative equivalent is final.

**19.5 Records of Disciplinary Actions.**

Copies of all documents pertaining to disciplinary actions shall be filed in the employee's personnel file.

**19.6 Authority/Related Policies**

Regents' Rules and Regulations, Rule 30601

Criminal Background Checks for Employment

June 1, 2003

Revised September, 2010

Revised and Approved May 3, 2011

Standards of Conduct Guide

Approved September 27, 1995

## **20. Standards of Conduct Guide**

In accordance with Texas Government Code 572.051 and 2113.014, all employees will be provided with a —Standards of Conduct Guide. The Office of Human Resources shall maintain documentation that all employees have received the guide.

Criminal Background Checks for Employment

June 1, 2003

Revised September, 2010

Revised and Approved May 3, 2011

Management Responsibilities Handbook

Approved September 27, 1995

## **21. Management Responsibilities Handbook**

The Management Responsibilities Handbook was developed to assist vice presidents, deans, department chairs, and other budget heads (who are responsible for management of campus departments and units) to understand their roles and responsibilities in campus administration. It defines and clarifies areas of accountability and provides a guide to the expertise and assistance available from campus administrative support departments. The Management Responsibilities Handbook is on The University of Texas of the Permian Basin website (<http://ba.utpb.edu/compliance/management-responsibilities-handbook/>).

## 22. Criminal Background Check Policy

**22.1 Purpose.** The University of Texas of the Permian Basin is committed to promoting a safe and secure environment. To that end, this policy sets forth requirements for criminal background checks in employment decisions.

**Such criminal history or criminal conviction information will be used only for the purpose of evaluating the security risk and suitability of the individual for employment at the institution. The information will not be used to discriminate on the basis of race, color, national origin, religion, sex, disability, age, or sexual orientation.**

**22.2 Criminal Background Check Required.** The University of Texas of the Permian Basin will obtain criminal background checks,<sup>1</sup> on:

**22.21 Applicants for Employment:** any applicant, internal or external, who is under final consideration, following normal screening and selection processes, for employment in a regular (i.e. not temporary) full-time or part-time security sensitive position with the University of Texas of the Permian Basin.

**Authorization:** The institution will receive an authorization form signed by the applicant before the institution requests the check. The format of the authorization form is specified in the institution's HOP and conforms to applicable state and federal law.

**Sources for applicants:** Any or all of the following background check sources may be used, as appropriate:

- i. The TX DPS Crime Records Service – Secure Site.
- ii. A private vendor that offers national criminal background checks services.
- iii. Other state, national, and international sites.

**22.22 Current Employees:**

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<sup>1</sup> This policy and procedure addresses criminal background checks only and does not limit the University's authority to conduct other background checks as permitted by law.

- a. a current employee who although not an applicant, is transferred, demoted, promoted or reclassified from one security-sensitive position to another security-sensitive position and on whom the University did not previously obtain either criminal history or criminal conviction record information within the past two years ;
- b. a current regular (i.e., not temporary) employee if the institution has not previously obtained a criminal background check on the employee; and
- c. a current employee when the President, or his/her designee, determines it is necessary to further the goals of the institution.

**Sources for current employees:** Any or all of the following background check sources may be used, as appropriate:

- i. The TX DPS Crime Record Service—Public Site.
- ii. A private vendor that offers national criminal background checks services.
- iii. Other public state, national, and international sites.

**22.23 Statutorily Required Criminal Background Check.** Where state or federal law requires that a position be subject to a criminal background check using a specific source of criminal background check information and/or certain procedures, the University of Texas of the Permian Basin will comply with such laws. To the extent such laws impose criminal background checks that are more extensive or substantially similar; the institution may rely on compliance with the statute to satisfy the requirements of this policy.

**22.3 Job Descriptions, Advertisements, and Postings** The University of Texas of the Permian Basin Office of Human Resources (OHR) will ensure that all job advertisements and postings for any position at the institution that meets the definition of security sensitive as defined in Texas Education Code § 51.215 include a statement that the position is security sensitive and the employer is authorized to obtain a criminal background check including criminal history record information.

## **22.4 Conducting a Criminal Background Check**

**22.41 Applicants.** A criminal background check will not be performed until OHR receives and forwards to the Office of Police a completed, signed Criminal Background Check Form. The hiring official is responsible for directing the individual to complete, sign, and return the form to the hiring official who will deliver the form to OHR along with the Request to Make an Offer form. An applicant who fails to complete, sign, and submit the form will be removed from further consideration for the position. In addition, if the applicant is a current employee, such refusal is grounds for disciplinary action.

**22.42 OHR** will send the completed Criminal Background Check Form and, if applicable, a copy of the finalist's employment application to the Office of Police.

**22.43 The** criminal background check should include states where the applicant has resided and/or been employed during the period of no less than seven years immediately preceding the date the individual signed the Criminal Background Check Form.

**22.44 The** Office of the Police will promptly obtain and review the criminal background information and will notify the hiring official and the appropriate OHR representative of the results of the investigation.

**22.45 ODOP** will conduct the criminal background check before the hiring official makes the employment decision. However, if circumstances require that an offer of employment be made before the completion of the criminal background check, the offer must be in writing and contain a statement that the offer is contingent on the completion of a satisfactory criminal background investigation. The individual to whom the position is offered may not begin work until the requirements of the policy have been met without the prior approval of the President or his/her designee.

## **22.5. Conducting a Criminal Background Check on Non-Applicant Current Employees.**

**22.51 The** University will utilize the TxDPS Crime Records Service – Public Site and/or other publically available local, state, or federal criminal record sources to perform these checks to obtain criminal conviction record information and other publically available information. The TxDPS secure site will not be used for these checks.

**22.52 OHR** will determine a procedure to identify the current U. T. System Administration employees for whom a criminal background check has

not previously been obtained and provide such information to the Office of Police.

**22.53 OHR** may require an employee to complete, sign, and deliver a criminal background check form to OHR. An employee's refusal to comply is grounds for disciplinary action.

**22.54 The** Office of Police will promptly obtain and review the criminal background information and will notify the department head and the appropriate OHR representative of a criminal record, if any.

**22.6 No Automatic Disqualification for Criminal Background.** An individual with a criminal record will not automatically be disqualified from employment or promotion. In the event the investigation reveals criminal record information, the hiring official, in consultation with OHR and the Office of Police, will determine on a case-by-case basis whether the individual is qualified based on factors such as:

- a. specific duties of the position;
- b. number of offenses;
- c. nature of each offense;
- d. length of time intervening between the offense and the employment decision;
- e. employment history;
- f. efforts at rehabilitation; and
- g. accuracy of the information that the individual provided on the employment application.

**22.7 Falsification or Omission of Criminal Record Information.** Falsification of an application or omission of criminal record information required to be reported is grounds to reject an applicant or discipline/terminate an employee.

**22.8 Notice Requirement.**

22.81 If OHR receives a report indicating that an applicant or a current employee has a



criminal record that may be relied on regarding an employment decision, the individual will be notified, provided with a copy of the report, except as provided by law or DPS policy or procedure, informed of the right to challenge the accuracy and completeness of the report with the agency that provided the report, and informed that he/she has the opportunity to submit additional information relating to the criminal record and why it should not affect an employment decision.

22.82 The University has used a third-party vendor credit reporting agency to conduct criminal record checks, the resulting report is considered a —consumer report under the Fair Credit Reporting Act (FCRA). If such a report is relied on to deny employment, deny a promotion, reassign, or terminate an employee, the individual will be provided with a specific pre-adverse action disclosure that includes a copy of the individual's consumer report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," a document prescribed by the Federal Trade Commission. The credit reporting agency that furnishes the individual's report is required to give the University the summary of consumer rights.

(<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre35.pdf>)

Revised and Approved May 3, 2011

## **22.9 Opportunity to Respond**

**22.91 Staff Positions.** If the Office of Police or OHR advises the hiring official that the individual may be unacceptable for the position being filled or for continued employment, the individual will be notified and within five business days following the receipt of the report or receipt of information that the individual has a criminal background as provided in Section 8.1, the individual may submit additional information to the hiring official/supervisor relating to the criminal record and why it should not affect the employment decision. Before the hiring official/supervisor makes a final employment decision, he/she will review all information provided to him/her with OHR and the Office of Police and consult about whether to proceed with an offer or adverse employment action. If either OHR or the Office of Police is of the opinion that the results of the criminal background check indicate that the individual may be unacceptable for the position being filled or for continued employment, then the hiring official may not extend an offer to or continue employment of the individual without the prior written approval of the president or his or her designee.

## **22.92 Faculty Positions.**

**22.921 Outside Applicant.** Within five business days following the receipt of the report or receipt of information that the individual has a criminal background as provided in 8.1., the individual may submit additional information to the hiring official relating to the criminal record and why it should not affect an employment decision. Before the hiring official makes a final employment decision, he/she will review all information provided to him/her with an official designated by the institution and obtain a recommendation from the designated official about whether to proceed with an offer. The decision of the hiring official is final and may not be appealed.

**22.922 Current Faculty Member.** Within five business days following the receipt of the information as provided in 8.1(unless an extension has been granted by the Dean because the faculty member is on leave and unable to respond in the five day period), the current faculty member may submit additional information to the Dean of their school relating to the criminal record and why it should not affect their employment. If the current faculty member so requests in writing, before the employment decision is made, the Dean or designated official will review the information with an officially designated faculty committee and obtain a written recommendation from the committee about whether to proceed with an offer or adverse employment recommendation to the Provost. The faculty committee will be constituted completely by tenured faculty

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appointed by the President from the list of faculty recommended by the Senate to serve on faculty hearing tribunals.

**22.93 External Applicants for Employment.** The decision of the University is final and may not be appealed.

**22.94 Current Employees.** If the individual is a current employee subject to a background check, standard employee grievance procedures are available to challenge the decision. If the criminal record leads to termination, the applicable employee discipline and discharge procedure will be used.

**22.10 Post-Decision Disclosure When Private Vendor Services Used to Conduct Criminal Background Check.** If a consumer report has been relied on to deny employment, deny a promotion, reassign, or terminate an employee after the institution has taken an adverse action, the individual must be given notice that the action has been taken. It must include

- (a) the name, address, and phone number of the credit reporting agency that supplied the report;
- (b) a statement that the credit reporting agency that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- (c) a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional free consumer report from the agency upon request within 60 days.

**22.11 Post Application/Employment: Self-Report of Charges or Convictions Required.**

**22.111 External Applicants for Employment.** Applicants must report in writing any charges or convictions, excluding misdemeanor offenses punishable only by fine, occurring after the date of application.

**22.112 Current Employees:** U. T. institution employees must report to their supervisor in writing, within five business days, any criminal convictions, excluding misdemeanor offenses punishable only by fine. Subject to standard grievance and disciplinary procedures as applicable, failure to do so is a violation of policy and may lead to disciplinary action as appropriate.

**22.12 Criminal Background Check Records.**

Criminal background check records shall be handled and retained in accord with applicable state and federal laws.

Such criminal history or criminal conviction information will be treated as confidential as required by law. Such information will not be made a part of the applicant's file, or the employee's personnel file, or communicated to any unauthorized person. The release of criminal history information to unauthorized persons is a criminal offense under *Texas Government Code §411.085*.

The Chief of Police of the institution shall destroy all criminal history record information and specific criminal background check information that the institution obtained about the individual six months after it is obtained. The Chief of Police will notify the Director of Human Resources when the destruction is complete.

If the University has discovered an item of concern through a university-sponsored faculty background check, and the faculty member was cleared, that item will be considered closed for review as long as the faculty member remains in the employ of the university and does not have a significant job change as described in Section 2.2 a of this policy.

**22.13 Relevant Federal and State Statutes**

*Texas Education Code § 51.215* – Access to Police Records of Employment Applicants

*Texas Government Code § 411.094* – Access to Criminal History Record Information: Institution of Higher Education

*Texas Government Code § 411.081 et seq.* – Criminal History Clearinghouse  
*Texas Government Code § 411.135* – Access to Certain Information by Public *Fair Credit Reporting Act*, 15 U.S.C. § 1681 et seq.

**22.14 Relevant Forms**

Criminal Background Check Form

**22.15 System Administration Office(s) Responsible for Policy**

Office for Business Affairs  
Office of General Counsel

**22.16 Dates Approved or Amended**

November 26, 2002  
Amended August, 2010

**22.17 Contact Information**

Questions or comments about this policy may be directed to U. T. System Office of General Counsel (512) 499-4462.

## **23. Performance Evaluation Program**

It is the policy of The University of Texas of the Permian Basin that a written performance evaluation be conducted for all non-faculty employees, excluding student workers. Employees will be evaluated in a manner that does not discriminate against an individual in connection with his or her compensation or the terms, conditions, or privileges of his or her employment.

Probationary employees shall have their work performance evaluated at 90-days and 180-days of employment. These evaluations shall utilize that standard performance evaluation form.

Non-probationary employees shall have their work performance evaluated not less than once per year. Performance evaluations may take place more frequently than once per year at the discretion of the employee's supervisor or other administrative supervisor.

A copy of the completed performance evaluation shall be retained by the appropriate office, such as the Office of Human Resources, for maintenance in an appropriate employee file and a copy shall be retained by the department.

Performance evaluation policy and procedures for faculty issues can be found in The Handbook of Operating Procedures, Part I, Faculty Issues.

## **24. Prohibited Weapons Policy**

### **I. Title**

Prohibited Weapons

### **II. Policy**

- A. Prohibition of Weapons: Except as authorized pursuant to this policy, the use, possession, display or storage of any weapons, simulated weapons, explosives or fireworks on the University campus is prohibited. Individuals who observe a weapon being displayed are required to report the incident immediately to The University of Texas of the Permian Basin Police Department so it can be documented and properly investigated. UTPB Police can be contacted at (432) 552-2911 and (432) 552-2786 for non-emergencies. UTPB Police will refer potential violations of this policy to the Office of Human Resources or the Student Conduct professional as applicable.

B. Exceptions:

1. Licensed peace officers may carry authorized weapons on the campus.
2. Pursuant to Subchapter H, Chapter 411 of the Texas Government Code, individuals licensed by the state to carry a concealed handgun (License Holder) may carry a concealed handgun in approved areas on the University Campus Beginning August 1, 2016. The following restrictions will apply:
  - a. This exceptions applies only to handguns; therefore, rifles and other weapons are prohibited on the University Campus with the exception of weapons permitted under Section B. 1.
  - b. The University will not provide storage for handguns on the University Campus.
  - c. License Holders who reside in University housing areas which are not exclusion zones must safely secure or store their firearms to prevent tampering or theft as required by the University police Department.
3. Exclusion Zones are set forth the in Appendix A. Subchapter H, Chapter 411 of the Texas Government Code gives the presidents of public universities the ability to designate gun-free zones on their campuses. The University has identified exclusion zones based on applicable laws and regulations, the general constituency of the campus population in those areas, safety considerations and any unique and material characteristics of those areas. The Texas Government Code 411.2031(d-1) and the Texas Penal Code 30.06 require notice to be give regarding areas where license holders may not carry concealed guns. Signage will be provided for these areas, using the required wording and format.

C. Training and Awareness

1. In order to improve general campus safety regarding weapons on campus, the University will:
  - a. Provide educational materials for students, faculty and staff regarding active shooter situations.
  - b. Post in a number of prominent locations a concise compilation of campus-carry information and FAQs.
  - c. Promote awareness of available mental health assistance through websites and other types of publicity.

D. Violations and Penalties

1. Reports of faculty or staff violating this policy will be investigated by the Office of Human Resources and individuals will be subject to discipline under

the University's Human Resources policies and procedures which may include disciplinary actions up to and including termination of employment for employees.

2. Reports of students violating this policy will be investigated by a University Student Conduct professional and individuals will be subject to discipline under the Student Conduct policy which may include disciplinary actions up to and including expulsion.
  3. Suspected violations of law will be reported to the UTPB Police Department or other law enforcement agencies and may result in criminal penalties. A license holder is bound by state and federal law and may face criminal or civil penalties for violation of those statutes.
  4. Violations include, but are not limited to:
    - a. Carrying any weapon on the University campus, unless specifically permitted state or federal law or this policy.
    - b. In compliance with Texas Penal code 46.035(a-1), a license holder may not carry a partially or wholly visible handgun on the University campus. Handguns must be carried on or about the person. Handguns must be in holsters that completely cover the trigger guard area and that can withstand any movement from jostling, falling, etc.
    - c. Causing an intentional, inadvertent or accidental discharge of a firearm that is not justified in the use of force or deadly force.
    - d. Using, or threatening to use, a weapon in a threatening or hostile manner.
    - e. Taking action which a prudent person would not take in regard to the care or use of the firearm.
  5. Penalties: A person who fails to comply with the rules and the regulations prescribed by the University may be subject to University discipline and may also be in violation of the Texas Penal Code. Alleged violations of the Texas Penal Code will be investigated by UTPB Police Department. Investigations of policy violations and criminal violations may run concurrently or separately. The lack of any finding of criminal activity does not preclude the University from finding a violation of policy. Persons in violation of any lawful order to remove a weapon or to leave the University campus are subject to arrest by UTPB Police Department.
- E. Reporting: Not later than September 1<sup>st</sup> of each even-numbered year, the University shall submit a report to the legislature and appropriate committees that describes all provisions regarding the carrying of concealed handguns on the University campus.

The report will contain the rationale for the University's current provisions.

III. Definitions

Handgun: Any firearm that is designed, made or adapted to be fired with one hand.

License Holder: An individual in possession of a current license issued or recognized by the State of Texas to carry a concealed handgun.

Summer Camp: A University sanctioned program with specific objectives designated for high school students or younger and which utilizes facilities that may include housing, dining, classroom, meeting and recreation space.

University Campus: All land and buildings owned or leased by the University.

Weapon: Any object or substance designed to inflict a wound, cause injury, or incapacitate, including without limitation to firearms, BB guns, air guns, pellet guns, zip guns, switchblade knives, knives with a blade over five and one-half inches and other illegal knives or clubs prohibited by statute. Chemicals such as mace, tear gas, or oleoresin capsicum, but excluding normally available over-the-counter self-defense repellants. Possession of chemical repellants labeled for police use only or for law enforcement use only are restricted to law enforcement.

IV. Relevant Federal and State Statutes

Texas Government Code Chapter 411

Texas Penal Code Chapter 46

V. Relevant UT System and Institutional Policies, Procedure and Forms

HOP, Part 5, Section 1 – Student Conduct Code

HOP, Part 3, Section 19 – Discipline and Dismissal of Classified Employees

Campus Carry FAQs

The University of Texas of the Permian Basin Police Department Policy and Procedure (pending)

VI. Who Should Know

All member of the campus community, including students, staff, faculty, visitors, contractors, prospective students, and the parent of students and prospective students.

VII. UTPB Officer(s) Responsible for Policy

President



Provost and Vice President for Academic Affairs

Vice President for Business Affairs

Senior Associate Vice President for Student Services

VIII. Dates Approved or Amended  
Pending

IX. Contact Information  
All questions regarding this policy should be directed to the Senior Associate Vice President for Student Services.

#### **APPENDIX A**

Areas of the UTPB campus where carrying a concealed handgun is prohibited include the following exclusion zones:

- a. Locations providing counseling services, which includes the Counseling Center in the Founders' Building.
- b. Locations providing childcare for minor children, which includes the Child Care Center located in the Student Activity Center.
- c. Locations providing education for K-12, which includes STEM Academy and Early College High School.
- d. Locations primarily used for NCAA, UIL or other ticketed sporting events.
- e. Locations administering contracted testing, which includes the Student Testing and Accommodation Center.
- f. University housing in rooms that are shared by two or more persons.
- g. Locations used for camps and programs for minors, which includes University housing when used for summer camps.
- h. Research labs where highly toxic and volatile chemicals are present.
- i. On a case-by-case basis, any location, or specific time period the University President determines creates a unique situation that poses a threat to the safety of the campus community.