UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM

SECTION: General Information **NUMBER: 01.D.08**

AREA: Legal Affairs

SUBJECT: Sexual Misconduct

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1. PURPOSE

This Policy provides the exclusive mechanism for the University of Houston System and its universities ("University") to manage the non-criminal reporting of Sexual Misconduct, as defined in this Policy, by providing a prompt, fair, and impartial investigation and resolution process.

Consistent with its commitment to addressing Sexual Misconduct, the University complies with Title IX of the Education Amendments of 1972 ("Title IX"), which prohibits discrimination on the basis of sex in Education Programs or Activities, as defined in this Policy, Title VII of the Civil Rights Act of 1964 ("Title VII"), which prohibits sex discrimination in employment, Section 304 of the Violence Against Women Reauthorization Act of 2013 (also known as the Campus Sexual Violence Elimination Act (SaVE Act) and applicable state law, including Texas Education Code §51.259 and §51.295 and Texas Labor Code §21.142. The University also prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking as defined by the Jeanne Clery Campus Safety Act.

2. POLICY

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, visitors, and applicants for admission or employment are free from sex discrimination of any kind. Sexual Misconduct, a form of sex discrimination, is antithetical to the standards and ideals of the University. The University will take appropriate action in an effort to eliminate Sexual Misconduct from occurring and prevent its recurrence, including, but not limited to, taking immediate and appropriate corrective action when a violation occurs which impacts an individual's employment. Likewise, the University will address its effects by conducting educational programs, including ongoing prevention and awareness campaigns, designed to promote awareness, reduce risk, and prevent Sexual Misconduct. In implementing this Policy, the University, to the greatest extent practicable, ensures equal access for persons with disabilities.

This Policy includes two separate grievance processes in order to comply with Title IX regulatory requirements and continue to address Sexual Misconduct that occurs outside of Title IX jurisdiction: Title IX Grievance Procedures and UH System Sexual

Misconduct Grievance Procedures. The University acknowledges that Sexual Misconduct occurring outside of an Education Program or Activity, as defined in the Title IX regulations and this Policy, can have a direct impact on the campus experience, depriving individuals who experience it of their fundamental ability to live, learn, and work with dignity. It is essential that university environments foster gender equality and provide safe spaces in which all students can learn and all employees can work. Students' equal access to education depends on effective policies and responses by universities to address Sexual Misconduct.

Students and employees may be disciplined under this Policy for Sexual Misconduct on University grounds or off University grounds when the incident occurs in connection with an Education Program or Activity, when the incident has a substantial connection to an employee's duties or the interests of the University, or when the incident poses a threat of serious mental or bodily harm to any member of the University community, even if the student or employee is or may be penalized by civil or criminal authorities for the same act.

3. DEFINITIONS

3.1 Actual Knowledge: Notice of actual or alleged Sexual Misconduct to a University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. Other officials of the University who have authority to institute corrective measures on behalf of the University include all elementary school employees.

3.2 Complainant: An individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct, as defined in this Policy.

3.3 Confidential Resource Employee: A University employee designated as a person with whom students may speak confidentially about Sexual Misconduct, who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law. Such employees include, but are not limited to:

3.3.1 The staff of a counseling or health center acting in their capacity as a counseling or health provider; and

3.3.2 Individuals who are associated with the University in the role of a pastoral counselor or confidential advisor acting in that capacity.

3.4 Consent: An informed and freely and affirmatively communicated willingness to participate in a particular sexual activity by a capacitated and legally competent person. See *Section 5 – Consent* for further guidelines on Consent.

3.5 Discrimination: Treating an individual or members of a Protected Class less favorably because of their membership in that class or having a policy or practice

that has a disproportionately adverse impact on Protected Class members.

3.6 Education Program or Activity: Such locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the Title IX Sexual Misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University, whether such a building or activity is on-campus or off-campus.

3.7 Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Misconduct against a Respondent and requesting that the University investigate the allegation(s) of Sexual Misconduct.

3.7.1 A document filed by a Complainant means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing a Formal Complaint.

3.7.2 Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under this Policy.

3.8 Hearing Advisor: An individual acting on behalf of a named party in Title IX Grievance Procedures. Any named party will have the same opportunity to have a Hearing Advisor of their choice present during any hearing held in accordance with the Title IX Sexual Misconduct Grievance Procedures. This Advisor may be an attorney, provided at the party's expense, with no cost to the University. If an individual is unable to obtain a Hearing Advisor, the University will provide one to any named party at no charge.

3.9 Hearing Board: The group of faculty and staff members from which a Hearing Panel may be selected in a UH System Sexual Misconduct hearing.

3.10 Hearing Officer: An individual not affiliated with the University who serves over the hearing process in a Title IX Grievance Procedures hearing and issues a Written Determination regarding responsibility and any sanction or remedy as applicable.

3.11 Hearing Panel: The four (4) faculty and/or staff members presiding over a hearing in a UH System Sexual Misconduct hearing.

3.12 Incapacitation: A person is incapacitated (not legally competent) and cannot consent to sexual activity if the person is unconscious or otherwise unable to resist, is unaware that sexual activity is occurring, and/or does not have the legal capacity to consent.

3.12.1 A person may be unable to consent when they are mentally or physically incapacitated because of the influence of drugs, alcohol, or medication and as a result are rendered temporarily incapable of understanding, appraising, or controlling their conduct.

3.12.2 A person's incapacity to understand, appraise, or control their conduct may be analyzed based on surrounding factors including, but not limited to, hallucinations, blackouts, seizures, vomiting, slurred speech, disorientation, or lack of physical or mental coordination.

3.12.3 When a Respondent has been accused of engaging in sexual activity with an incapacitated person, the perspective of a reasonable person will be applied to determine whether the Respondent knew or should have known about the Complainant's inability to give consent.

3.13 Protected Class: A class of persons who are protected under applicable federal or state laws against discrimination and harassment on the basis of race, color, sex (including gender and pregnancy), genetic information, religion, age (over 40), national origin, ethnicity, disability, military status, sexual orientation, gender identity or status, gender expression, or any other legally protected status.

3.14 Personal Advisor: Any named party is entitled to have one (1) personal advisor of their choice present during any meeting related to the investigation of Sexual Misconduct. This advisor may be an attorney, provided at the party's expense, with no cost to the University. Personal Advisors may not speak on behalf of the individual they are advising or be a witness at any hearing that they attend in the capacity of Personal Advisor or Hearing Advisor. A Personal Advisor may ask to briefly suspend any meetings, interviews, or hearings to provide private consultation related to the meeting or proceeding in process. An individual serving as a Personal Advisor may serve as a Hearing Advisor under Title IX Grievance Procedures.

3.15 Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct.

3.16 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, and staff, except Confidential Resource Employees.

3.17 Sexual Misconduct: Any conduct defined in this Policy as Title IX Sexual Misconduct or UH System Sexual Misconduct. Please see *Appendix A – Definitions* for more information.

3.18 Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent regardless of whether a Formal Complaint has been filed.

3.19 Title IX Coordinator: The person who has been designated on each University's campus to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is responsible for conducting 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. The Title IX Coordinators for each University are located here:

University of Houston System/University of Houston
Assistant VC/VP for Equal Opportunity Services
(713) 743-8835
https://www.uh.edu/equal-opportunity/contact/

University of Houston – Downtown
Title IX Coordinator
(713) 221-5771
https://www.uhd.edu/title-ix/

University of Houston – Clear Lake
Title IX Coordinator
(281) 283-2305
https://www.uhcl.edu/titleix/

3.20 Title IX Sexual Misconduct: Please see *Appendix A – Definitions*.

3.21 UH System Sexual Misconduct: Please see *Appendix A – Definitions*.

3.22 University-Affiliated Activity: Any activity on or off campus that is initiated, aided, authorized, or supervised by the University or by an officially recognized University organization.

3.23 University Premises: Buildings or grounds owned, leased, operated, controlled, or supervised by the University.

3.24 Written Determination: The Hearing Officer will provide a written decision of responsibility simultaneously to the Title IX Coordinator and the parties. This document will contain both the finding(s) and the sanction(s) or remedies, if applicable.

4. JURISDICTION

4.1 The University has jurisdiction over allegations of Sexual Misconduct occurring on the University's premises, at University-Affiliated Activities, and/or where the Respondent or Complainant are either a student, faculty member, staff member, visitor to campus, or applicant for admission or employment. Consistent with its other codes of conduct, the University has jurisdiction over allegations of UH System Sexual Misconduct occurring off campus when the incident has a substantial connection to an employee's duties or the interests of the University, or when the incident poses a threat of serious mental or bodily harm to any member of the University community. Other than the University Police Department which may conduct a criminal investigation as appropriate, the University does not have jurisdiction over allegations between visitors or non-affiliated persons under this Policy.

4.2 The University has the discretion to investigate conduct occurring off University premises or at a non-University-Affiliated Activity if either the Complainant or Respondent is University-Affiliated.

4.3 Proceedings may continue even if a party is no longer employed with the University. Per state law, proceedings will continue even if a party is no longer a student of the University.

4.4 The University's jurisdiction over Title IX Sexual Misconduct is limited to incidents that meet the definition of Title IX Sexual Misconduct as well as the following requirements:

4.4.1 The University received Actual Knowledge of allegations of Title IX Sexual Misconduct;

4.4.2 The allegation of Title IX Sexual Misconduct occurred in an Education Program or Activity including any building owned or controlled by a student organization that is officially recognized by the University, whether such a building or activity is on-campus or off-campus;

4.4.3 The allegation of Title IX Sexual Misconduct occurred against a person in the United States; and

4.4.4 At the time of filing a Formal Complaint, the Complainant had been participating in or attempting to participate in the University's Education Program or Activity.

4.5 If the University is notified that a member of the University community has reported an incident of Sexual Misconduct, but the University does not have jurisdiction to handle the case, the University will still take reasonable steps to

ensure the individual's safety while on campus and to offer the individual information about resources both on campus and in the community.

5. CONSENT

5.1 Consent can be expressed either by words or by clear and unambiguous actions, as long as those words or actions create mutually understandable permission regarding the conditions of each instance of sexual activity.

5.2 It is the responsibility of the person who wants to initiate a sexual activity to ensure that they have the consent of the other(s) to initiate each instance of sexual activity before they initiate the sexual activity.

5.3 Consent is active, not passive, and cannot be inferred from the absence of a "no." Without words or actions demonstrating permission, silence, lack of protest, or lack of resistance cannot be assumed to show Consent.

5.4 The existence of a dating relationship or a previous sexual relationship between the persons involved does not provide the basis for an assumption of consent to future sexual activity.

5.5 Being under the influence of drugs and/or alcohol is never a defense for not obtaining consent.

5.6 A person cannot consent if physical force or violence is used or threatened.

5.7 Sexual Misconduct can occur between strangers or acquaintances.

5.8 Alcohol or other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and effectively given. Consent is difficult to discern when a person has ingested alcohol and/or other drugs. Anyone wanting to initiate sexual activity is strongly encouraged to err on the side of caution when either they or the person(s) they want to initiate the activity with appear(s) to be intoxicated or there is reasonable cause to believe any individual is intoxicated.

6. REPORTING INCIDENTS

6.1 Any person, regardless of whether they are the alleged victim, may report Sexual Misconduct to the Title IX Coordinator in person, by mail, by electronic mail, by telephone, or by the University's electronic reporting system.

6.2 Anonymous Reporting

6.2.1 Alleged victims and others not required to report may report Sexual Misconduct anonymously through the web-based reporting system, the

Fraud and Non-Compliance Hotline.

6.2.2 The web address for the Fraud and Non-Compliance Hotline is: uhsystem.ethicspoint.com

6.2.3 Reports received through this site will be reviewed and investigated if sufficient information is provided to conduct an investigation.

6.2.4 The University will work with anyone who is identified via a Fraud and Non-Compliance report or subsequent investigation to provide anonymity to the full extent possible under this Policy.

6.2.5 Upon receipt of an anonymous report that implicates this Policy, the Title IX Coordinator will invite the reporter to formalize the report into a Formal Complaint. While Supportive Measures are available to anonymous reporters without filing a Formal Complaint, finding(s) and sanction(s) or remedies, if applicable, require a Formal Complaint as described in *Appendix B and C*.

6.2.6 If the anonymous reporter declines to pursue a Formal Complaint, the Title IX Coordinator may pursue a complaint on behalf of the University after considering the factors explained in *Section 14.2.3*.

6.2.7 Complainants have the right to decide if and when they report the incident(s) to the University, law enforcement, or to any other member of the University community. The University strongly encourages individuals to access services, such as counseling and medical help, that can respond to the immediate mental and physical impact of an act of Sexual Misconduct. Individuals can access these services regardless of whether they report what happened.

6.3 The University strongly encourages reporting as soon as possible. Prompt reporting may preserve options that delayed reporting does not, including immediate police response and the preservation of physical evidence that may be necessary to prove an alleged criminal offense or to obtain a protective order.

6.4 Once an individual alerts the University of an alleged violation of this Policy the Complainant will be provided with written information including this Policy, their rights, reporting options, and support resources regardless of whether the incident(s) occurred on or off campus.

6.5 Complainants have multiple options regarding the involvement of law enforcement and campus authorities, including:

- The option to notify proper law enforcement authorities including on campus and local police;

- The option to be assisted by campus authorities in notifying law enforcement authorities; and

- The option to decline to notify such authorities.

6.6 Anyone can receive information about this Policy, their rights under the Policy, reporting options, and support resources without disclosing facts related to the alleged incident.

6.7 Each University may have their own programs and services related to the issues covered by this Policy so there may be additional resources for information on your campus.

7. EMPLOYEE REQUIRED REPORTING

7.1 To comply with Texas Education Code Chapter 51, an employee of the University who, in the course and scope of their employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes Sexual Misconduct and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the University at the time of the incident regardless of when or where the incident occurred shall promptly report the incident to the University's Title IX Coordinator.

7.2 This section does not apply to an incident in which the employee was a victim of Sexual Misconduct.

7.3 A Confidential Resource Employee, in making a report under this section, will state only the type of incident reported and may not include any information that would violate someone's expectation of privacy.

7.4 In addition, some individuals who are not Responsible Employees who must share reports under this section with the Title IX Coordinator include, but are not limited to:

- Elected Members of Student Government Associations; and

- Individuals, including students, serving as responsible persons, even if they are volunteers, at a University Education Program or Activity. These individuals could be teaching assistants, graduate assistants, research assistants, chaperones, peer mentors, or retreat counselors. These individuals are required to report because they are either in a position to do something

about the alleged action(s), may be perceived to be able to do something about the alleged action(s), or would otherwise have to report known or suspected incidents of Sexual Misconduct.

7.5 Anyone who is required to report known or suspected violations of this Policy must promptly contact the Title IX Coordinator and disclose what they know about the alleged incident(s). Even if a required reporter is a Campus Security Authority and must provide a report to law enforcement or other campus departments, the reporter must also directly notify the Title IX Coordinator as soon as possible.

7.6 Reports should include all information concerning the incident known to the reporting person, including all relevant details such as the following:

- The name of the Respondent (if known) and any affiliation with the University (if known);
- The name of the Complainant and any affiliation with the University (if known);
- The names of other people who may be involved;
- Relevant facts, including date, time, and location of the incident(s); and
- Whether a Complainant has expressed a desire for confidentiality in reporting the incident.

7.7 The University will comply with all applicable state laws regarding mandatory reporting for known or suspected abuse, neglect, or exploitation of a child or a vulnerable adult.

7.8 Individuals who are not required to report and who are not bound by state confidentiality laws are still encouraged to report known or suspected violations of this Policy and may do so through the methods listed in this Policy.

7.9 Public awareness events such as “Take Back the Night,” candlelight vigils, protests, “survivor speak outs,” or other forums in which members of the community disclose incidents of violations of this Policy are not considered notice to the University for the purpose of triggering its obligation to investigate.

However, information regarding rights under this Policy will be available to anyone who discloses Sexual Misconduct at one of these types of events.

7.10 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, including Sexual Misconduct:

Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
Phone: (214) 661-9600
Fax: (214) 661-9587
Email: OCR.Dallas@ed.gov

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination, including Sexual Misconduct:

U.S. Equal Employment Opportunity Commission
Houston District Office
1919 Smith Street, 6th Floor
Houston, Texas 77002
Phone: (800) 669-6820
Fax: (713) 651-4987

8. IMMEDIATE ASSISTANCE

8.1 Medical Assistance: An individual who experiences any form of Sexual Misconduct is encouraged to seek immediate medical care. 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 120 hours 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, please go to the nearest hospital that provides SAFE services. For more information about the SAFE, see the University of Houston System's webpage dedicated to resources and reporting information related to sexual misconduct.

The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases in which a report will not be made to the police, the Office of the Attorney General. This does not include fees related to medical treatment that are not a part of the SAFE. An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care because they 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.

8.2 Police Assistance: Because the prohibited actions outlined in this Policy may also constitute a criminal act(s), individuals seeking emergency assistance or who want to file a criminal report may contact their University police department or the appropriate local law enforcement agency. In addition to any possible criminal action, the University Police will forward notice of the report to the Title IX Coordinator. Reporting to the police helps maintain future options regarding criminal prosecution. Generally, when the victim reports the incident, a police officer will take a statement from the victim regarding what happened. An adult victim can request that their identity be kept confidential. Anyone wishing to file a report with University police can make a report to their University's Police Department as noted below:

- University of Houston Campus Police Department
  http://www.uh.edu/police
  713-743-3333
  - University of Houston – Sugar Land
    A campus security station is located in BH 174 and the AMG lobby. Security can be reached at the duty desk at 832-842-2929.

  - University of Houston – Katy
    A campus security station is located on the first floor lobby of the UH – Katy campus. Security can be reached at the duty desk at 832-841-3911.

- University of Houston - Clear Lake Police Department
  http://www.uhcl.edu/police
  281-283-2222
  - University of Houston Clear Lake – Pearland
    281-283-2222

- University of Houston - Downtown Police Department
  https://www.uhd.edu/police-department/index.aspx
  713-221-8911
  - University of Houston - Downtown Off-campus Locations (UHD @LSC Cy-Fair, UHD@LSC Kingwood and Northwest)
    281-290-5911; https://www.lonestar.edu/campus-police.htm

8.3 Counseling Assistance: A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if they do not plan to request a Sexual Assault Forensic Exam (SAFE) or report the assault to the police.

8.4 Complainants will be provided written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available both within the University and in the community.

9. SUPPORTIVE MEASURES, EMERGENCY REMOVAL, & LEAVE DURING AGENCY INVESTIGATION

9.1 Supportive Measures

9.1.1 Once the Title IX Coordinator receives a report of an alleged act of Sexual Misconduct, the Title IX Coordinator will promptly contact the Complainant and Respondent in writing to discuss the availability of Supportive Measures, consider the Complainant's and Respondent's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without filing a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint.

9.1.2 The University will treat the parties equitably by offering Supportive Measures to Complainants and Respondents.

9.1.3 Supportive Measures are offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent.

9.1.4 The University's Supportive Measures are designed to restore or preserve equal access to the University's Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational, living, and working environment, or to deter Sexual Misconduct.

9.1.5 Supportive Measures may include, but are not limited to:

- Counseling for a Complainant or Respondent through a University-affiliated counseling center while the processes outlined in this Policy are ongoing;
- Extensions of deadlines or other course-related adjustments;
- Modifications of work or class schedules;
- Campus escort and transportation services;
- Mutual restrictions on contact between the parties;
- Changes in work or housing locations;

- Leaves of absence; or
- Increased security and monitoring of certain areas of the campus.

9.1.6 The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

9.1.7 The University will honor any order of protection, no-contact order, restraining order, or similar lawful order issued by any criminal, civil, or tribal court.

9.1.8 Failure to adhere to the parameters of any Supportive Measure may be considered a separate violation of this Policy and may result in disciplinary action.

9.2 Emergency Removal & Leave During Agency Investigation

9.2.1 Once the Title IX Coordinator receives a report of an alleged act of Sexual Misconduct, the Title IX Coordinator will undertake an individualized safety and risk analysis to determine whether an immediate threat to the physical health or safety of any student, employee, or other individual arising from the allegations of Sexual Misconduct justifies emergency removal or Leave During Agency Investigation pending further investigation. At the conclusion of the safety and risk analysis, the Title IX Coordinator will make a recommendation for removal to the appropriate office. The appropriate office will provide Respondent with notice and an opportunity to challenge the decision immediately following their removal.

9.2.2 An employee Respondent may be placed on Leave During Agency Investigation, in accordance with the University's policy and procedures on employee Leave During Agency Investigation during the pendency of a grievance process, as outlined in this Policy.

10. DISMISSALS AND GRIEVANCE PROCEDURES

10.1 Classification of Alleged Sexual Misconduct

10.1.1 Before, during, or after the completion of the investigative report, the Title IX Coordinator will make a determination on the classification of the alleged Sexual Misconduct, in order to determine the appropriate procedures prescribed in this Policy.

10.1.2 For purposes of determining the appropriate grievance procedure, jurisdiction, and dismissal requirements, the Title IX Coordinator will

determine whether the Sexual Misconduct is classified as either Title IX Sexual Misconduct or UH System Sexual Misconduct, both as defined in this Policy.

10.2 Title IX Sexual Misconduct

10.2.1 If the Title IX Coordinator determines that the alleged Sexual Misconduct constitutes Title IX Sexual Misconduct, the requirements in this section will apply, including the Title IX Grievance Procedures, jurisdiction, and dismissal requirements. The Title IX Coordinator may dismiss a Formal Complaint from the Title IX Grievance Procedures that does not meet the jurisdictional requirements as described below at any time.

10.2.2 Title IX Dismissals

A. Permissive Dismissals – A Formal Complaint may be dismissed from the Title IX Grievance Procedures if:

- A party is no longer employed with the University;
- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegation therein;
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the allegations contained in the Formal Complaint;
- The Complainant expressly or by action declines to cooperate with the investigation;
- An appropriate resolution or remedy has already been achieved; or
- The University no longer has control over an employee Respondent and, when appropriate, remedies have been offered to the Complainant.

B. Mandatory Dismissals

- A Formal Complaint must be dismissed from the Title IX Grievance Procedures when the conduct alleged would not

constitute Title IX Sexual Misconduct as defined in this Policy.

- While the University must dismiss a Formal Complaint from the Title IX Grievance Procedures when the Formal Complaint does not meet the jurisdictional or definition requirements for purposes of Title IX Sexual Misconduct, such a dismissal does not preclude action under another provision of this Policy or the University's codes of conduct.

- The University will simultaneously notify the parties of dismissal of a Formal Complaint from the Title IX Grievance Procedures as well as the reasons for dismissal.

- The parties may appeal a Title IX dismissal through the process described in the Written Appeals section of *Appendix B – Title IX Grievance Procedures.*

10.3 UH System Sexual Misconduct

10.3.1 If the Title IX Coordinator determines that the alleged Sexual Misconduct constitutes UH System Sexual Misconduct, as defined in this Policy, the requirements in this section will apply, including the grievance procedure, jurisdiction, and dismissal requirements.

10.3.2 UH System Sexual Misconduct Dismissals

A. The University reserves the right to dismiss a Formal Complaint from the UH System Sexual Misconduct Grievance Procedure for the following non-exclusive reasons:

- The Complainant expressly or by action declines to cooperate with the investigation;

- An appropriate resolution or remedy has already been achieved; or

- The University no longer has control over the Respondent if they are an employee and, when appropriate, remedies have been offered to the Complainant.

10.3.3 If the University decides to not proceed with a Formal Complaint under the UH System Sexual Misconduct Grievance Procedure, the University

will notify the Complainant within five (5) business days of the decision explaining the reason(s) for this decision. This notification will also include a statement informing the Complainant of their ability to file a new complaint with additional information and this new complaint will be assessed on its own merits.

11. CONFIDENTIALITY

11.1 The University will keep confidential the identity of any individual who has made a report or Formal Complaint of Sexual Misconduct, any Complainant, any Respondent, and any witnesses, except as may be necessary to conduct an investigation, hearing, or judicial proceeding, or except as permitted by FERPA.

11.2 If a party is a student, the student will need to sign a FERPA Release form for the Personal or Hearing Advisor to be present at any meeting or proceeding. The FERPA Release allows staff to speak freely about the student's case when the Personal or Hearing Advisor is present. The student may revoke the FERPA release in writing if they choose to no longer have the individual serve as their Personal or Hearing Advisor or have access to the matter.

11.3 The University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures.

11.4 The University will protect the anonymity of all individuals involved in a report or a Formal Complaint by refusing to disclose their identifying information to anyone outside the University to the maximum extent permitted by law.

11.5 The University has great respect for the privacy of the parties identified in a report or Formal Complaint. Under state law, however, Responsible Employees who receive information of alleged Sexual Misconduct must share that information with the Title IX Coordinator. As such, the University may need to act to maintain campus safety and must determine whether to investigate further, regardless of the Complainant's request for confidentiality or request to not investigate a report submitted to the Title IX Coordinator.

11.6 In making determinations regarding requests for confidentiality including Complainants' requests to not investigate, dismiss Formal Complaints, and/or to not disclose identifying information to Respondents, the Title IX Coordinator must deliberately weigh the rights, interests, and safety of the Complainant, the Respondent, and the campus community. The University must consider the following non-exclusive factors when determining whether to investigate an alleged incident of Sexual Misconduct:

- The seriousness of the alleged incident;
- Whether the University has received other reports of alleged Sexual Misconduct by the alleged Respondent;
- Whether the alleged incident poses a risk of harm to others; and
- Any other factors the University determines relevant.

11.7 Under state law, if the Complainant requests in writing that the University not investigate a report, the University must inform the Complainant of the decision whether or not to investigate.

11.8 When a Formal Complaint is signed by the Title IX Coordinator rather than filed by a Complainant, the University is required to send both parties details about the allegations, including the identity of the parties, if known. If the Complainant's identity is unknown, the grievance process under this Policy may proceed if the Title IX Coordinator determines it is necessary to sign a Formal Complaint, even though the written notice of allegations required in this Policy does not include the Complainant's identity.

11.9 Community-based programs not affiliated with the University may also be confidential resources and would follow their own policies and procedures regarding reporting duties.

11.10 The University will protect the confidentiality of Complainants and other necessary parties while ensuring Clery Act statistical reporting requirements, specifically, such reporting will be done without inclusion of personally identifying information about a Complainant.

12. SELF-HELP

12.1 An individual who believes that they are the subject of unlawful Sexual Misconduct may choose to deal with the alleged offender directly through a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In some cases, this approach may resolve the situation; in others, it may be ineffective or place the individual in an uncomfortable, insecure, or compromised position.

12.2 Under no circumstances should an individual feel pressured to address the alleged offender directly or handle the matter alone, and a decision not to confront a person alleged to be discriminatory or harassing will not be treated negatively under this Policy.

13. PRELIMINARY RESPONSE PROCEDURES

13.1 A report of a violation of this Policy does not automatically begin the formal grievance procedures outlined in this Policy. A Complainant who reports an incident of Sexual Misconduct may seek a formal grievance process by filing a Formal Complaint as described in *Section 14* of this Policy.

13.2 The University will determine the appropriate preliminary response to each report based on the information available at the time of the report and, whenever possible, with the input of the Complainant.

13.3 When the University receives a report regarding an alleged violation of this Policy, it will take reasonable measures to do the following:

- Contact the Complainant and the Respondent to notify them of their rights and options under this Policy;
- Implement any appropriate Supportive Measures; and
- Conduct a preliminary investigation, as appropriate.

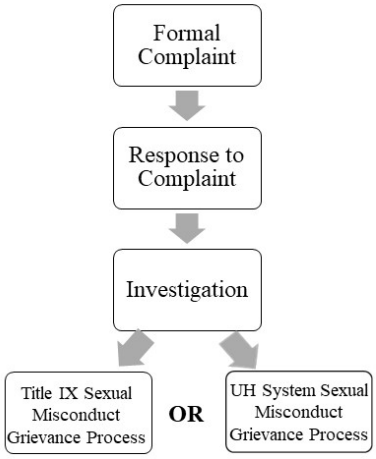
13.4 Anyone who reports Sexual Misconduct will be notified of their right to speak to the appropriate law enforcement agency and file a report for possible criminal prosecution.

13.5 The processes outlined in this Policy is separate from any criminal proceeding related to the reported behavior and may occur while criminal proceedings are ongoing.

13.6 Proceedings under this Policy will not be dismissed or delayed because criminal prosecution is pending, criminal charges have been dismissed, or the criminal charges have been reduced.

14. FILING A FORMAL COMPLAINT & INVESTIGATION

14.1 If a Complainant wishes to pursue official University action against a Respondent for alleged Sexual Misconduct, they may follow the steps described in this section to file a Formal Complaint, which will initiate an investigation. At the end of the investigation, the Title IX Coordinator will make a determination on which grievance process (as described in *Section 15 and 16* of this Policy) is appropriate based on jurisdictional requirements.



*This graphic explains the formal complaint progress. A Complainant files a formal complaint, the Respondent(s) have an opportunity to provide a written or verbal Response, the Title IX office performs an investigation, and the Title IX office will inform the parties of which grievance process will apply based on jurisdictional requirements.

14.2 Filing a Formal Complaint

14.2.1 A Complainant may file a Formal Complaint alleging Sexual Misconduct with the Title IX Coordinator in person, by mail, by electronic mail, or by the University's electronic reporting system.

14.2.2 The University does not limit the timeframe for filing a report or Formal Complaint of Sexual Misconduct, although the University's ability to take any action may be limited because of the passage of time.

14.2.3 Even in the absence of a Formal Complaint, some circumstances may require the Title IX Coordinator to initiate a Formal Complaint in order to protect the University community. If the Title IX Coordinator initiates a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party. The decision for the Title IX Coordinator to file a Formal Complaint is not taken lightly and will be determined based on various factors including, but not limited to, the type of actions alleged in the report, prior reports received, the potential for repeated behavior, and/or the potential on-going risk to the non-participating Complainant and/or the University community.

14.2.4 If the Title IX office determines that the Formal Complaint does not contain alleged conduct that constitutes Sexual Misconduct as defined in this Policy, the Title IX office will endeavor to determine whether other

codes of conduct or University policies might have been implicated by the alleged conduct and refer accordingly.

14.2.5 Once a Formal Complaint is filed, if the Complainant decides that they want to withdraw the Formal Complaint, the University's investigation may still proceed.

14.2.6 The University may consolidate Formal Complaints as to the allegations of Sexual Misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, where the allegations of Sexual Misconduct arise out of the same facts or circumstances.

14.3 Written Notice to the Parties

14.3.1 After receipt of a Formal Complaint, the Title IX Coordinator will provide written notice to the parties within five (5) business days, which will include, but is not limited to:

- Notice of the University's Title IX Grievance Procedure, if applicable, including information about the Informal Resolution process;
- Notice of the allegations that may constitute Sexual Misconduct;
- Sufficient details, including the identities of the parties involved in the incident, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the parties may have a Personal Advisor of their choice who may be, but is not required to be, an attorney;
- Notice that the parties may inspect and review evidence, in accordance with applicable policies; and

  Notice of any provision of the University's code of conduct or other policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

14.4 Response to a Formal Complaint

14.4.1 A Respondent's response to a Formal Complaint is due to the Title IX office within five (5) business days from the date the Title IX office sent it

to the Respondent. The Title IX office may grant an extension for good cause.

14.4.2 The response should address and respond to the specific allegations made in the Formal Complaint and can include any other rebuttal information or evidence.

14.4.3 A response may be provided in writing or through an in-person interview with the investigator(s).

14.4.4 While a Respondent is not required to provide a response to the Formal Complaint or answer questions related to the investigation, this will not stop the Formal Complaint process. Failure to acknowledge receipt of the Formal Complaint may be considered a violation of University policy and could result in additional action.

14.5 Informal Resolution (Optional)

14.5.1 If a Formal Complaint alleges a violation of this Policy, the Title IX Coordinator may choose to offer the parties an informal process that resolves the Formal Complaint without completing the grievance process. The option to informally resolve a Formal Complaint depends on whether the University determines that informal resolution may be appropriate and whether both parties voluntarily agree to attempt informal resolution.

14.5.2 If informal resolution is offered by the Title IX Coordinator, the parties are not required to accept this process. If the parties choose to accept the informal resolution process, they must provide their written consent to the Title IX Coordinator.

14.5.3 The informal resolution offered by the Title IX Coordinator may encompass a broad range of conflict resolution strategies, including, but not limited to:

- Alcohol education classes;
- Regular meetings with an appropriate University official(s);
- Permanent extension of a mutual no contact directive;
- Restriction from participation in student organizations;
- University-led training sessions; and
- Counseling sessions.

14.5.4 Any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to a Formal Complaint at any time prior to agreeing to a resolution.

14.5.5 If an informal resolution is accepted by the parties in writing, the Title IX Coordinator will provide the parties written notice of the following:

- The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming the grievance process with respect to a Formal Complaint arising from the same allegations;

- At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint; and

- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

14.5.6 Any final resolution pursuant to the informal resolution process will be documented and kept for seven (7) years as required by law. However, no recording of the informal resolution process will be made and any statements made during the informal resolution process may not be used for or against either party. Failure to comply with an informal resolution agreement may result in disciplinary action.

14.5.7 Informal resolution may **not** be used to resolve Sexual Misconduct allegations where a University employee is alleged to have engaged in Sexual Misconduct against a student. Under certain circumstances, a student may be considered an employee.

14.6 Investigation

14.6.1 Absent extenuating circumstances, a Sexual Misconduct investigation will begin upon receipt of a Formal Complaint of alleged Sexual Misconduct. A preliminary investigation may begin prior to receiving a response from a Respondent.

14.6.2 Title IX investigator(s) will attempt to gather evidence and interview the Complainant, the Respondent(s), and any witnesses, including those identified by the Complainant and Respondent, as appropriate.

14.6.3 Both Complainant and Respondent will be provided equal opportunity to present witnesses and other inculpatory and exculpatory evidence.

14.6.4 Both Complainant and Respondent will be provided equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source.

14.7 Inspection of Evidence and Investigative Report

14.7.1 Prior to the completion of the investigative report, the Title IX investigator(s) will send to each party and their Advisor, if any, a draft copy of the investigative report and all evidence obtained as part of the investigation, including all inculpatory or exculpatory evidence.

14.7.2 The parties will be given ten (10) business days to review the draft report and evidence and provide a written response before the investigative report becomes final.

14.7.3 The Title IX investigator(s) will finalize the investigative report after considering the responses from the parties and will provide a copy to the parties and their Personal Advisors, if any, at least ten (10) business days prior to the hearing.

15. TITLE IX SEXUAL MISCONDUCT GRIEVANCE PROCEDURE

15.1 If the alleged Sexual Misconduct is found to be considered Title IX Sexual Misconduct, the Title IX Grievance Procedure, described in *Appendix B* of this Policy, will apply.

16. UH SYSTEM SEXUAL MISCONDUCT GRIEVANCE PROCEDURE

16.1 If the alleged Sexual Misconduct is found to be considered UH System Sexual Misconduct, the UH System Sexual Misconduct Grievance Procedure, described in *Appendix C* of this Policy, will apply.

17. RETALIATION PROHIBITED

17.1 The University takes reports of Sexual Misconduct very seriously and will not tolerate retaliation against those who in good faith make such reports or participate in the investigation or adjudication process. Any actual or threatened retaliation or any act of intimidation to prevent or otherwise obstruct the reporting of Sexual Misconduct or the participation in proceedings relating to Sexual Misconduct, may be considered a separate violation of this Policy and may result in disciplinary sanctions.

17.2 No person may intimidate, threaten, coerce, discriminate or take any adverse employment or educational action against any individual for the purpose of interfering with any rights or privilege secured in this Policy or because the individual has made a report, filing, charge or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

17.3 Any person who believes that they have been subjected to retaliation should immediately report this concern to the Title IX Coordinator.

17.4 If an individual makes a materially false statement in bad faith during the course of a grievance procedure under this policy, this conduct may constitute a violation through a separate University policy. A finding through a separate policy does not constitute retaliation prohibited in this section. However, a determination of responsibility under the Sexual Misconduct, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

18. IMMUNITY

18.1 To encourage reporting, the University will not take any disciplinary action against a student enrolled at the University who in good faith reports being the victim of, or a witness to, an incident of Sexual Misconduct for a violation under the University's Student Code of Conduct for conduct by the student occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the University's disciplinary process regarding the incident, if any. The University may investigate to determine whether a report of an incident of Sexual Misconduct was made in good faith. A determination that a student is entitled to amnesty is final and may not be revoked.

18.2 A person employed by or enrolled at the University acting in good faith who reports or assists in the investigation of a report of an incident of alleged Sexual Misconduct, or who testifies or otherwise participates in the Formal Complaint process, will not be subjected to any disciplinary action by the University for any violation by the person of the University's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. Decisions regarding immunity are made by the Title IX Coordinator in conjunction with the appropriate sanctioning body.

18.3 Immunity, as described in this section, does not apply to individuals who participate or assist in the reported alleged incident.

19. ALLEGATIONS INVOLVING UNIVERSITY-AFFILIATED ORGANIZATIONS

19.1 If a report is made alleging that a University-Affiliated organization has violated this Policy, the Title IX Coordinator will make a referral to the appropriate administrative department and/or adjudicative body over that organization to

ensure a timely, equitable process to determine if an organization violated relevant University policies.

19.2 If a report is made involving an organization, The Title IX Coordinator will seek to identify any individuals who may be involved. The Title IX Coordinator will, in collaboration with the Complainant whenever possible, determine whether a Formal Complaint under this Policy will be filed against any identified individuals.

19.3 The Title IX Coordinator will work in partnership with the appropriate adjudicative body should there be concurrent investigations involving individuals and organizations, including, but not limited to, sharing information with appropriate University administrators who have a legitimate need to know.

20. NON-PARTICIPATING COMPLAINANTS

20.1 Non-participating complainants, individuals who decline to serve as a Complainant as per *Section 14*, will maintain certain rights per this Policy.

20.2 When the Title IX Coordinator pursues a Formal Complaint on behalf of the University, it will work with the non-participating complainants to the extent they are willing and/or able to participate.

20.3 Non-participating complainants receive the same notifications as the Complainant and Respondent as outlined in *Appendix B* and *Appendix C* of this Policy, unless they request otherwise.

20.4 Non-participating complainants always maintain the right to reasonable Supportive Measures as outlined in Section 9 of this Policy.

20.5 Non-participating complainants do not have appeal rights as per this Policy.

21. ADDITIONAL INTERVENTIONS

21.1 When a report is received alleging a violation of this Policy, the University will take appropriate steps to assess whether additional actions, beyond a formal investigation and possible disciplinary sanctions, are appropriate, regardless of whether a Formal Complaint is filed or a finding of violation made.

21.2 Actions may respond to the specific needs of impacted persons and/or may address the needs of the University community to respond to immediate and long-term concerns regarding personal safety, academic success, and emotional well-being.

21.3 Actions may include extending Supportive Measures provided to impacted persons such as those listed in Section 9 or new actions taken to respond to

immediate and long-term concerns regarding personal safety, academic success, and emotional well-being.

21.4 Actions to address the needs of the University community may include, but are not limited to, training (both targeted training and campus-wide programs), campus safety assessments, campus climate surveys, and evaluation of policies and procedures.

22. ADMINISTRATIVE REPORTING

22.1 Not less than once every three months, the Title IX Coordinator of the University shall submit to the University's chief executive officer a written report on the reports received for the institution's reporting period. The report shall include the following information: the investigation of reports; the disposition, if any, of any disciplinary processes arising from reports; and the reports for which the institution determined not to initiate a disciplinary process, if any.

22.1.1 The Title IX Coordinator will immediately report to the University's chief executive officer any incident in which the Title IX Coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

22.2 At least once annually during either the fall or spring semester the chief executive officer of the University shall submit to the University's Board of Regents and post on the University's website a report concerning the reports received from the Title IX Coordinator.

23. COMPLIANCE

23.1 The chief executive officer of the University shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Texas Education Code Subchapter E-2 (Sections 51.251-51.260).

24. TRAINING

24.1 Investigator(s) will receive training at least annually on issues related to Sexual Misconduct and how to conduct the processes outlined in this Policy while being both trauma-informed and impartial, while protecting the safety of those involved and promoting accountability.

24.2 Members of the University's Hearing Board and Hearing Officers will receive training at least annually on issues related to Sexual Misconduct. These individuals will also receive training regarding the role of the Title IX office to enforce this Policy, best practices for hearings and hearing panelists, and their role in ensuring and promoting safety, due process, and accountability.

24.3 The University will provide training for all incoming students and new employees that increase their knowledge about this Policy, their rights, and resources, as well as strategies to prevent violence, promote safety, and reduce perpetration. Employees will receive initial mandatory training within thirty (30) days of their hire date and supplemental training every two (2) years.

24.4 The University will provide training for Title IX Coordinators, investigators, Hearing Officers, and any person designated by the University to facilitate an informal resolution process as required by Title IX.

25. REVIEW AND RESPONSIBILITY

Responsible Party: Vice Chancellor for Legal Affairs and General Counsel

Review: Every two years

26. APPROVAL

Approved: /Dona Cornell/
Vice Chancellor for Legal Affairs and General Counsel

/Renu Khator/
Chancellor

Date: August 26, 2026

27. LEGAL REFERENCES AND RESOURCES

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 – 1688, 34 CFR Part 106

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2, 29 CFR Part 16

Violence Against Women Reauthorization Act of 2013 (also known as the Campus Sexual Violence Elimination Act (SaVE Act), Section 304, 34 U.S.C. 12291

Family Education Rights and Privacy Act (FERPA) – 20 U.S.C. § 1232g; 34 CFR Part 99

Jeanne Clery Campus Safety Act ("Clery Act") – 20 U.S.C. § 1092(f); 34 CFR Part 668.46

Texas Education Code Subchapter E-2 – *Reporting Incidents of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking* (§§ 51.251 – 51.260)

Texas Education Code Subchapter E-3 – *Sexual Harassment, Sexual Assault, Dating Violence, and Stalking* (§§ 51.281 – 51.295)

Texas Labor Code § 21.142 – *Unlawful Employment Practice*

Texas Labor Code § 21.055 – *Retaliation*
Texas Penal Code § 42.07 – *Harassment*
Texas Penal Code § 42.072 - *Stalking*

APPENDIX A – Definitions

This chart provides clarity on the definitions of acts which constitute Sexual Misconduct under Title IX and UH System Policy. ***Please note, for Title IX Sexual Misconduct the alleged conduct must meet the jurisdictional requirements described in Section *4.4 – Jurisdiction*. In other words, the conduct alleged must occur in the United States, on campus or at a University affiliated building or event, and the Complainant is participating or attempting to participate in a University program at the time of filing the complaint.**

Definition	Title IX Sexual Misconduct	UH System Sexual Misconduct
Dating Violence	*As defined in 34 U.S.C. 12291(a)(10). Dating Violence means violence committed by a person: • Who is or has been in a social relationship of a romantic or intimate nature with the victim; and • Where the existence of such relationship shall be determined based on a consideration of factors such as the length of relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.	As defined in 34 U.S.C. 12291(a)(10). Dating Violence means violence committed by a person: • Who is or has been in a social relationship of a romantic or intimate nature with the victim; and • Where the existence of such relationship shall be determined based on a consideration of factors such as the length of relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.
Domestic Violence	*As defined in 34 U.S.C. 12291(a)(8). Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim: • By a person 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 of the State of Texas http://www.statutes.legis.state.tx.us/SOTWDocs/CR/htm/CR.5.htm; 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 jurisdiction.	As defined in 34 U.S.C. 12291(a)(8). Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim: • By a person 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 of the State of Texas http://www.statutes.legis.state.tx.us/SOTWDocs/CR/htm/CR.5.htm; 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 jurisdiction.
Non-Consensual Sexual Touching	*Please see the definition of Sexual Assault and/or Sexual Harassment below.	A form of sexual harassment that consists of any intentional touching in a sexual

Definition	Title IX Sexual Misconduct	UH System Sexual Misconduct
		manner, however slight or momentary, or the use of an object to touch another in a sexual manner without consent. Examples include, but are not limited to: • Unwanted touching of a sexual nature; or • Use of force or intimidation to make someone else engage in non-consensual sexual touching.
Quid Pro Quo	An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.	Please see definition of Sexual Harassment below.
Sexual Assault	*As defined in 20 U.S.C. 1092(f)(6)(A)(v). Sexual Assault means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Forcible Sex Offenses: • Rape is 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. • Sodomy is oral or anal sexual intercourse with another person without the consent of the victim. • Sexual assault with an object is the penetration, no matter how slight, of the genital or anal opening of the body of another person without the consent of the victim. An object is anything used by the offender other than the offender's genitalia. • Fondling is 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 their age or because of their temporary or permanent mental incapacity. Non Forcible Sex Offenses:	Sexual intercourse that occurs without consent. Examples include, but are not limited to, the following: • Penetration, however slight, of an orifice (anal, vaginal, oral) with the vulva, anus, or mouth, by a penis, finger, or other object; • Other acts of oral sex or anal stimulation; or • Knowingly exposing a person to and/or transmitting a sexually-transmitted infection or HIV/AIDS to another person.

Definition	Title IX Sexual Misconduct	UH System Sexual Misconduct
	• Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. • Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.	
Sexual Exploitation	*Sexual Exploitation as defined under UH System Sexual Misconduct that constitutes sexual harassment so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.	Sexual Exploitation is a form of sexual harassment that occurs when a party takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Sexual Misconduct offenses. Examples can include, but are not limited to, the following: • Prostituting or sex trafficking another; • Non-consensual recording, photographing, or transmitting intimate or sexual utterances, sounds, or images electronically or by other means without the knowledge and consent of all parties involved; • Voyeurism or watching or recording someone when that person is in a place where they would have a reasonable expectation of privacy; • Going beyond the boundaries of consent (such as engaging in actions that were not consented to during an otherwise consensual encounter); or • Distributing intimate or sexual images about another person without that person's consent, even if the images were obtained consensually.
Sexual Harassment	*As defined in 34 C.F.R. § 106.30(a), Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:	Broadly speaking, Sexual Harassment is subjecting an individual on the basis of her or his membership in a Protected Class to unlawful severe, pervasive, or persistent treatment that constitutes:

Definition	Title IX Sexual Misconduct	UH System Sexual Misconduct
	(1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; and/or (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.	• Humiliating, abusive, or threatening conduct or behavior that denigrates or shows hostility or aversion toward an individual or group; • An intimidating, hostile or abusive learning or living environment, or an environment that alters the conditions of learning or living; or • An unreasonable interference with an individual's academic performance. In the employment setting, Sexual Harassment includes an unwelcome sexual advance, a request for sexual favor, or any other verbal or physical conduct of a sexual nature if: • Submission to the advance, request, or conduct is made a term or condition of an individual's employment, either explicitly or implicitly; • Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's employment; • The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or • The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment. Examples that could satisfy this legal standard include, but are not limited to: epithets or slurs, negative stereotyping, threatening, intimidating or hostile acts, denigrating jokes and display or circulation (including through e-mail) of written or graphic material in the learning, living, or working environment.
Sexual Intimidation	*Sexual Intimidation as defined under UH System Sexual Misconduct that constitutes	Sexual Intimidation is a form of sexual harassment that involves threatening

Definition	Title IX Sexual Misconduct	UH System Sexual Misconduct
	sexual harassment so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity.	another with behavior of a sexual nature. Examples of this include, but are not limited to, engaging in indecent exposure (aka "flashing"), or transmitting or displaying a nude image where the action was unsolicited and a reasonable person would feel threatened or intimidated.
Stalking	*As defined in in 34 U.S.C. 12291(a)(30). Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: • Fear for safety or the safety of others; or • Suffer substantial emotional distress.	Stalking, including cyber stalking, is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for their safety and/or the safety of others; or suffer substantial emotional distress. This Policy will apply to acts of Stalking that: • Occur between people who currently have or have had a romantic or sexual relationship; or • Occur because of the Respondent's desire to have a romantic or sexual relationship with the Complainant A "course of conduct" is a pattern of behavior composed of two or more acts, whether directly by a Respondent or through third parties, over a period of time, however short, that evidence a continuity of purpose. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "reasonable person" means a reasonable person in the Complainant's circumstances. The definition of Stalking as used in this Policy may constitute criminal stalking in Texas. Relevant state law can be found at http://www.statutes.legis.state.tx.us/SOTWDocs/PE/htm/PE.42.htm

APPENDIX B – Title IX Grievance Procedures

1. TITLE IX INVESTIGATIVE REPORT

1.1 Upon completion of the investigation report by a Title IX investigator and a determination that the alleged Sexual Misconduct is considered Title IX Sexual Misconduct, the University will hold a hearing during which both parties' Hearing Advisors will have the opportunity to present relevant evidence and ask questions of the parties and witnesses.

2. PREPARING FOR A HEARING

2.1 Absent extenuating circumstances, the Title IX Coordinator will schedule a hearing within fifteen (15) business days from the conclusion of the investigation.

2.2 Once the hearing is scheduled, requests to reschedule the hearing must be submitted in writing to the Title IX Coordinator and will be considered by the Hearing Officer.

2.3 The Complainant and Respondent(s) will be notified of the identity of the Hearing Officer for their hearing. Within five (5) business days of this notification, the Complainant and Respondent(s) have the opportunity to object in writing to the Hearing Officer for cause. The Title IX Coordinator, in consultation with the Hearing Officer, will consider any objection and replace the Hearing Officer if appropriate. In the event that the Hearing Officer recuses themselves, an alternative Hearing Officer will be assigned.

2.4 No later than five (5) business days prior to the hearing, all materials that will be used at the hearing must be submitted to the Title IX Coordinator. The Title IX Coordinator will simultaneously make this material available for inspection or provide the materials to both parties as well as the Hearing Officer. The materials must include:

- All documents and other tangible evidence that will be used as evidence during the hearing.
- The names of any witnesses and a brief summary concerning the subject matter of the witness' expected testimony.
- The name of any advisor to be in attendance at the hearing and whether that person is an attorney. Only one Personal Advisor and one Hearing Advisor per party is allowed to attend.

2.5 No witness, document, or tangible evidence will be permitted at the hearing unless such information was timely submitted.

2.6 It is the responsibility of the party wanting to present a witness to secure that witness.

3. TITLE IX HEARING

3.1 Roles and Responsibilities

3.1.1 Designated Representative

A. A designated representative may be present at a hearing to serve as a resource to the Hearing Officer for sanctioning purposes in the case of a finding.

3.1.2 Hearing Advisor

A. A Hearing Advisor is responsible for advising and acting on behalf of a named party as to presentation of witnesses. Each party may have one (1) Hearing Advisor.

B. A Hearing Advisor may present evidence, question witnesses, and will conduct cross examination of the parties and witnesses. Each party will present their own opening and closing statements, which will be limited to fifteen (15) minutes each.

C. Hearing Advisors shall not directly address the opposing Hearing Advisor or the opposing party outside of cross-examination.

D. Hearing Advisors and parties shall not cause unreasonable delays by failing to schedule or appear for a meeting as requested by a Hearing Officer.

E. Hearing Advisors must adhere to the rules of decorum.

3.1.3 Hearing Officer

A. The Hearing Officer may question any individual at any time during the hearing.

B. The Hearing Officer may impose reasonable time limits on any stage of the hearing.

C. The Hearing Officer may determine the relevance of, and place restrictions on, any witness testimony or questions or information presented. The Hearing Officer has the responsibility to determine the relevancy of questions and explain in real time any decision not to permit a question to be asked.

D. The Hearing Officer will make determinations on admissibility.

E. The Hearing Officer has the authority to dismiss a Hearing Advisor who, in the Hearing Officer's judgment, is badgering or harassing a witness or party. Should the Hearing Officer dismiss a party's Hearing Advisor, the hearing shall be suspended until that party is assigned or obtains a new Hearing Advisor.

F. The Hearing Officer has the authority to request the attendance of a witness who was not designated by the parties if the Hearing Officer determines the witness may have relevant information.

G. The role of the Hearing Officer is to determine whether or not there is a finding of a violation of the University's Sexual Misconduct Policy. The finding(s) will be determined using a preponderance of the evidence standard; that is, whether it is more likely than not that a Respondent violated this Policy.

3.1.4 Parties

A. Complainants and Respondents are precluded from conducting cross-examination personally. The only method for conducting cross-examination is by a party's Hearing Advisor.

B. Parties shall not address each other during the hearing.

C. Parties must adhere to the rules of decorum.

3.1.5 Witnesses

A. Parties are responsible for requesting their witnesses to attend the hearing and securing their witness' attendance. The University cannot compel a witness to attend.

B. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character. The Hearing Officer will determine whether to allow a witness to speak at the hearing.

C. Witnesses must adhere to the rules of decorum.

D. Witnesses may be present in a hearing only during their testimony.

3.2 Decorum – During the hearing, all participants are expected to adhere to the following rules of behavior and decorum:

3.2.1 All participants should refrain from making disparaging personal remarks or displays of hostility toward opposing parties or advisors.

3.2.2 All participants should refrain from making gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses or a party, or at any other time.

3.2.3 All participants should refrain from interrupting or talking over one another.

3.2.4 All participants shall not engage in conduct that disrupts the orderly operation of the hearing.

3.2.5 Hearing Advisors and the parties shall refrain from making any comments after the Hearing Officer has issued any determination about relevance, admissibility, or other matter.

3.3 Hearing Process

3.3.1 The hearing will be held in accordance with the process set forth in this Policy.

3.3.2 Standard of Evidence – In all cases before a Hearing Officer, the standard of proof is a preponderance of evidence. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the reasonable evidence presented, that the Respondent violated this Policy. The burden of proof is on the University. By law, it is presumed that the Respondent is not responsible for the alleged conduct unless a

determination regarding responsibility is made at the conclusion of the grievance process.

3.3.3 The general course of the hearing procedure will be as follows, subject to the discretion of the Hearing Officer:

A. The Hearing Officer will convene the hearing, introduce the individuals present, give a brief description of the process, invite questions about the process, and allow the parties the opportunity to present a brief opening statement.

B. The Complainant or the Hearing Advisor for Complainant shall present evidence (including calling and questioning their own witnesses) to the Hearing Officer.

C. The Hearing Advisor for the Respondent shall have the opportunity to conduct cross-examination after the Hearing Advisor for the Complainant or the Complainant has completed questioning each of their own witnesses.

D. After all the Complainant's witnesses have been examined by both sides, the Respondent or the Hearing Advisor for the Respondent shall have the same opportunity to present their evidence and their own witnesses.

E. The Hearing Advisor for the Complainant shall have the opportunity to conduct cross-examination after the Hearing Advisor for the Respondent or the Respondent has completed questioning each of their own witnesses.

F. After both parties have presented their witnesses, the Title IX representative may provide testimony and documentation regarding their investigation to the Hearing Officer. The Title IX representative may be questioned by the Hearing Advisors or Hearing Officer.

G. The Hearing Officer will allow the parties the opportunity to present a brief closing statement before concluding the hearing.

3.3.4 At the request of either party, the University will provide the parties separate rooms and use technology so that the Hearing Officer and parties may simultaneously see and hear the questions. The hearing may also take

place virtually.

3.3.5 An audio and/or video recording of the hearing will be kept for the use of the Hearing Officer and for any appeal. The parties and their Hearing Advisors may request to review the recording.

3.4 Evidence

3.4.1 In addition to other relevant evidence, the following evidence is also considered admissible:

A. Evidence containing statements of a party or witness who does not submit to cross-examination at the hearing. The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the hearing or refusal to answer cross-examination or other questions.

B. Similarly, police reports, SANE reports, medical reports, and other documents and records may be considered by the Hearing Officer even if they contain the statements of a party or witness who has not submitted to cross-examination.

C. Where a Complainant refuses to answer cross-examination questions, but video or other evidence exists showing the underlying incident, the Hearing Officer may still consider the available evidence and make a determination.

3.4.2 Evidence that is not relevant or admissible:

A. Information protected by a legally recognized privilege.

B. Evidence about a Complainant's prior sexual history cannot be used to prove character or reputation and may only be allowed to prove that someone other than the Respondent committed the alleged conduct or if offered to prove consent.

C. Any party's medical, psychological, and similar records unless the party has given voluntary written consent or presents the records themselves.

3.5 Finding(s) and Written Determination

3.5.1 The Written Determination will contain both the finding(s) and the sanctions or remedies, if applicable, and will be provided to the parties

simultaneously.

3.5.2 Sanctions – The sanctions for a finding of a violation of the Sexual Misconduct Policy will be commensurate with the offense and may include, but are not limited to, the following:

- Probation (including disciplinary probation)
- Temporary or permanent ban from campus locations (such as residence hall communities)
- Educational programs such as state-certified batterer's intervention
- Ban from participating in campus organizations or activities
- Disqualification from employment or student leadership positions
- Withholding of transcripts, grades, diploma, or degree
- Partial or full criminal trespass
- Suspension from employment and/or enrollment
- Revocation of admission
- Termination of employment
- Expulsion

3.5.3 If a student is issued a sanction that makes them ineligible to reenroll in the University, the University will include on the student's transcript a notation stating that the student is ineligible to reenroll in the University for a reason other than an academic or financial reason.

On the student's request, the University may remove the notation from a student's transcript if the student is eligible to reenroll in the University or the University determines that good cause exists to remove the notation.

3.5.4 In accordance with Texas law, the University must terminate an employee who is found to have knowingly failed to make a report of Sexual Misconduct when the Responsible Employee was required to do so or knowingly made a false report of Sexual Misconduct with intent to harm or deceive. Knowingly failing to make a report and knowingly making a false report are criminal offenses under Texas law.

3.5.5 Remedies – Regardless of the finding(s), and in addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s) to resolve Formal Complaints of Sexual Misconduct, prevent any recurrence and, as appropriate, remedy any effects. These actions may include, but are not limited to the following:

- Ensuring the Complainant and Respondent do not share classes, working environments, or extracurricular activities;
- Making modifications to the on-campus living arrangements of a Respondent or Complainant (if the Complainant requests to be moved);
- Providing comprehensive services including medical, counseling, and academic support services such as tutoring;
- Determining whether the Sexual Misconduct adversely affected the Complainant's University standing and providing a remedy for same;
- In conjunction with University leaders, conducting 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; and
- Providing targeted group training.
- These remedies are separate from, and in addition to, any Supportive 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 a Supportive Measure, the Complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the Complainant declined as a Supportive Measure.

3.5.6 Written Determination – The Hearing Officer will provide a Written Determination of responsibility and sanction(s), if applicable, simultaneously to the Title IX Coordinator and the parties. The Written Determination will include the following statements from the Hearing Officer:

- Identification of the allegations at issue;
- Description of the procedural steps taken throughout the case including any notifications to the parties, interviews with parties and

witnesses, site visits, methods used to gather other evidence, and hearings held;

- Findings of fact supporting the determination;
- Conclusions regarding the application of the Sexual Misconduct Policy;
- A statement and rationale as to the determination for each allegation; and
- A statement of any disciplinary sanctions imposed on the Respondent and whether any remedies will be provided to the Complainant.
- The Written Determination will also include a description of the procedures and permissible grounds for appeal.

4. APPEAL

4.1 The Complainant and the Respondent(s) both have the right to appeal to the appropriate administrator a Title IX dismissal or Written Determination by submitting their written appeal to the Title IX Coordinator within five (5) business days from the date they receive the Title IX dismissal or Written Determination. The appealing party may appeal the dismissal, finding, sanction, or remedy. The non-appealing party will be notified of the appeal and be permitted to submit a written statement in response within five (5) business days of receiving notice of the appeal.

4.2 Grounds for Appeal – The sole grounds for appeal are:

4.2.1 Procedural irregularity that affected the outcome of the matter;

4.2.2 The weight of the evidence does not support or is contrary to the Hearing Officer's determination;

4.2.3 New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could significantly affect the outcome of the matter;

4.2.4 The Title IX Coordinator, investigator(s), Hearing Officer, or designated representative had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;

4.2.5 Parties may appeal erroneous relevance determinations during the hearing if they significantly affected the outcome; and

4.2.6 The sanctions are not commensurate with the violation(s) found.

4.3 The role of the appropriate administrator is to accept, reject, or remand the Title IX dismissal or Written Determination.

4.4 A Written Determination will become final upon the earlier of when:

- The parties are notified of the appropriate administrator's decision on the appeal; or
- The time to file an appeal has passed with neither party appealing.

4.5 The appropriate administrator will review the record on appeal which may include the investigative file, hearing recording, and appeal documentation from the parties only, and will render a written decision simultaneously to the Title IX Coordinator and the parties within fifteen (15) business days from the date that any response to the appeal is filed, with extensions for good cause allowed.

4.6 If the party's appeal includes an appeal of the sanction(s) determined by the Hearing Officer, the appropriate administrator will refer the appeal for further process as follows:

4.6.1 Any appeal to the sanction against a faculty member must be addressed through the University's faculty handbook/manual policies and procedures related to faculty grievances;

4.6.2 Any appeal to the sanction against a non-faculty University employee must be addressed through the University's policies and procedures related to employee grievances; and

4.6.3 Any appeal to the sanction against a student must be addressed through the final appeal process in the University's Student Code of Conduct or its equivalent.

4.7 If the appropriate administrator extends the fifteen (15) day deadline, they must provide a written explanation to the Title IX Coordinator and the parties in writing by that deadline and every ten (10) business days thereafter.

APPENDIX C – UH System Sexual Misconduct Grievance Procedures

1. TITLE IX INVESTIGATOR FINDING

1.1 At the conclusion of an investigation of a Formal Complaint and a determination that the alleged Sexual Misconduct is considered UH System Sexual Misconduct, as defined in this Policy, the investigative report will contain the Title IX investigator's finding(s) and recommendation. The Complainant and Respondent(s) will have the opportunity, but are not required, to respond to the investigative report in writing in advance of the Title IX investigator's finding. The Complainant and Respondent(s) should be provided updates on the progress of the investigation and issuance of the report.

1.2 The finding(s) will be determined using a preponderance of the evidence standard; that is, whether it is more likely than not that a Respondent violated this Policy.

1.3 If it is determined that this Policy was violated, appropriate university action will be recommended in an effort to eliminate Sexual Misconduct, prevent its recurrence, and address its effects.

1.4 Even if it is determined that this Policy was not violated, a recommendation may be made that a Respondent undertake educational initiatives and/or trainings.

1.5 The Complainant and the Respondent(s) will be simultaneously notified in writing of the finding(s) and appeal rights under this Policy.

1.6 At any time after a finding has been made that a Respondent has violated the Policy, the University may implement an interim sanction against the Respondent while the Formal Complaint is being further adjudicated.

1.7 Once findings have been made, any party to the Formal Complaint may request to meet with the investigator(s) to discuss the investigation and finding(s), and/or to inspect the investigative file.

2. NEW INFORMATION

2.1 If a party has new information they believe would have significantly impacted the finding(s) (e.g., witness testimony, documents, or other tangible evidence), they may submit that information to the Title IX Coordinator.

2.2 If the Title IX Coordinator determines that the submitted information should be reviewed, and the information was not available for the party to present during the investigation, the case may be re-opened.

2.3 The Title IX Coordinator will inform the parties of any new information. The parties will have the opportunity to respond to this information, and the Title IX Coordinator will consider the response(s) in deciding whether to reopen the investigation.

2.4 If the Title IX Coordinator decides to reopen the investigation, the process will resume at *Section 14.6 – Investigation* in the Policy.

3. GROUNDS FOR HEARING FOLLOWING A TITLE IX INVESTIGATOR FINDING

3.1 A hearing request to challenge the Title IX investigator's finding(s) must be submitted in writing to the Title IX Coordinator within five (5) business days of receiving the finding(s).

3.2 The Complainant and the Respondent(s) both have the right to request a hearing to challenge a finding for any error or procedural defect occurring during the investigation that could have significantly impacted the finding. The individual requesting a hearing will be referred to as the moving party.

3.3 A hearing is not a new investigation of the Formal Complaint.

3.4 A non-moving party does not have to participate.

3.5 If a hearing request is filed in accordance with this Section, the hearing request will automatically be presented to the University's Hearing Board ("Board") by the Title IX Coordinator.

3.6 The moving party may withdraw a hearing request in writing to the Title IX Coordinator prior to the scheduled start of the hearing. A withdrawn request will conclude the matter.

4. COMPOSITION OF THE BOARD

4.1 Members of the Board are selected from recommendations from the University's Faculty Council, Staff Council, and Student Affairs departments/offices, who shall each recommend at least five (5) individuals to the University's President. The President shall then select a Board of eight (8) with representation from each group recommended. Except for the first Board, members shall serve staggered terms of three (3) years.

4.2 If a conflict of interest arises for any of the Board members, the Title IX Coordinator will make a recommendation to the Board Chair to reduce or eliminate the conflict of interest.

4.3 Upon the Board's receipt of the hearing request, the Title IX Coordinator will take a poll to identify four (4) members to attend the hearing and compose

the Hearing Panel (three (3) members of the Hearing Panel will serve as voting members and one (1) will serve as an alternate, non-voting member).

5. RESPONSIBILITIES OF THE HEARING PANEL/NON-AFFILIATED HEARING OFFICER

5.1 If the hearing request concerns Sexual Assault, the moving party may waive their right to a hearing before the Hearing Panel and have their challenge heard by an individual hearing officer not affiliated with the University ("Non-affiliated Hearing Officer"). To waive their right to a Hearing Panel, the moving party must submit written notice to the Title IX Coordinator within five (5) business days of receiving the Title IX investigator's' finding(s).

5.2 The Hearing Panel/Non-affiliated Hearing Officer will make decisions using a preponderance of the evidence standard.

5.3 The role of the Hearing Panel/Non-affiliated Hearing Officer is to recommend that the appropriate administrator accept, remand, or reject the Title IX investigator's finding(s).

5.4 The Hearing Panel/Non-affiliated Hearing Officer can only recommend remanding the Title IX investigator's finding(s) if:

- An error or procedural defect occurred during the investigation that could have significantly impacted its finding(s); or
- Further investigation is warranted for any other material reason.

5.5 The Hearing Panel/Non-affiliated Hearing Officer can only recommend rejecting the Title IX investigator's finding(s) if:

- The weight of the evidence does not support or is contrary to the Title IX investigator's finding(s); or
- An error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.

5.6 While the Hearing Panel/Non-affiliated Hearing Officer will have the opportunity to review any evidence presented at the hearing, their role is not to reinvestigate the original Formal Complaint or to review allegations that would otherwise constitute a new Formal Complaint under this Policy or any other University policy.

6. RESPONSIBILITIES OF THE PERSONAL ADVISOR

6.1 Parties may elect to bring a Personal Advisor for any hearing related to the UH System Sexual Misconduct Grievance Procedure.

6.2 An advisor will not be permitted to speak on behalf of the advisee, make an oral presentation, including an opening or closing argument, be a witness, or question witnesses, the Title IX representative, or the Panel during the hearing. A Personal Advisor may respond to a direct question from the investigator during a meeting or the Hearing Panel/Non-affiliated Hearing Officer during a hearing.

6.3 A Personal Advisor is subject to the same confidentiality expectations applicable to others in attendance. Accommodations, including scheduling of interviews or hearings, will not be made for any advisors if they unduly delay the process.

7. PREPARING FOR A HEARING

7.1. Absent extenuating circumstances, the Title IX Coordinator will schedule a hearing to be held within fifteen (15) business days from the filing of the request.

7.2. Once the hearing is scheduled, requests to reschedule the hearing must be submitted in writing to the Title IX Coordinator and will be considered by the Hearing Panel/Non-affiliated Hearing Officer and the Title IX Coordinator.

7.3. The Complainant and Respondent(s) will be notified of the composition of the Hearing Panel or the identity of the Non-affiliated Hearing Officer for their hearing. Within five (5) business days of this notification, the Complainant and Respondent(s) have the opportunity to object in writing to a panel member or the Non-affiliated Hearing Officer for cause. The Title IX Coordinator, in consultation with the members of the Hearing Panel or Non-affiliated Hearing Officer, will consider any objection and replace the panel member or the Non-affiliated Hearing Officer if appropriate.

7.4. Both parties may bring one (1) Personal Advisor of their choosing, consistent with *Section 3.14 – Personal Advisor* of this Policy. This advisor may be an attorney provided at the party's expense.

7.5. No later than five (5) business days prior to the hearing, all materials that will be used at the hearing must be submitted to the Title IX Coordinator, who will forward the materials to the Hearing Panel/Non-affiliated Hearing Officer and will simultaneously make available for inspection or provide the materials to both parties. The materials must include:

- All documents and other tangible evidence that will be used as evidence during the hearing;

- The names of any witnesses and a brief summary concerning the subject matter of the witness' expected testimony; and

- The name of any Personal Advisor to be in attendance at the hearing and whether that person is an attorney.

7.6 No advisor, witness, document, or tangible evidence will be permitted at the hearing unless such information was timely submitted.

7.7 No new information as defined by Section 2 of these procedures will be presented to the Hearing Panel/Non-affiliated Hearing Officer before or during the hearing.

7.8 It is the responsibility of the party wanting to present a witness to secure that witness.

8. HEARING PROCESS

8.1 Prior to the beginning of a hearing, the Hearing Panel members will select a Chairperson for the hearing.

8.2 The general course of the hearing procedure will be as follows, subject to the discretion of the Panel Chairperson/Non-affiliated Hearing Officer:

8.2.1 The Panel Chairperson/Non-affiliated Hearing Officer will convene the hearing, introduce the individuals present, give a brief description of the process, invite questions about the process, and allow the parties the opportunity to present a brief opening statement;

8.2.2 The moving party shall present their evidence, including calling and questioning their own witnesses, to the Hearing Panel/Non-affiliated Hearing Officer. If the other party participates, they shall have the same opportunity to present their evidence and witnesses;

8.2.3 The Title IX investigator shall present their documentation related to the finding(s) to the Hearing Panel/Non-affiliated Hearing Officer; and

8.2.4 The Panel Chairperson/Non-affiliated Hearing Officer will allow the parties the opportunity to present a brief closing statement before concluding the hearing.

8.3 During the hearing, the Panel Chairperson/Non-affiliated Hearing Officer may impose reasonable time limits on any stage of the hearing.

8.4 The Panel Chairperson/Non-affiliated Hearing Officer may also determine the relevance of, and place restrictions on, any witness or information presented.

8.5 The Hearing Panel/Non-affiliated Hearing Officer may question any individual at any time during the hearing.

8.6 The parties may question their own witnesses, but they cannot directly question each other or any other party's witnesses.

8.7 The parties may request that the Panel Chairperson/Non-affiliated Hearing Officer ask questions of another party or their witnesses by submitting proposed questions to the Panel Chairperson in writing either prior to, or during, the hearing.

8.8 The Panel Chairperson/Non-affiliated Hearing Officer may determine which questions are relevant, and the Panel Chairperson/Non-affiliated Hearing Officer has the discretion to revise a question or to decline to ask the question.

8.9 An audio recording of the hearing will be kept for the use of the Hearing Panel/Non-affiliated Hearing Officer and for any appeal.

8.10 In cases where a moving party refuses to participate in the hearing, the Hearing Panel/Non-affiliated Hearing Officer will convene and make a decision based on the evidence and testimony available to the Hearing Panel/Non-affiliated Hearing Officer.

8.11 This hearing process is an internal University process and not a formal courtroom process in which rules of evidence and courtroom procedures apply.

8.12 Personal Advisors may attend the hearing and sit with their advisee during the hearing, communicate quietly orally and/or in writing with their advisee during the hearing, and may respond to a direct question from the Hearing Panel/Non-affiliated Hearing Officer.

8.13 An advisor will not be permitted to speak on behalf of their advisee, make an oral presentation, including an opening or closing argument, or to question witnesses, the Title IX investigator, or the Hearing Panel/Non-affiliated Hearing Officer during the hearing.

8.14 If the Hearing Panel/Non-affiliated Hearing Officer determines it is necessary or advisable, alternative testimony options will be available such as allowing a witness to appear via other virtual means (e.g., via telephone or video conference).

9. HEARING PANEL/NON-AFFILIATED HEARING OFFICER DECISION

9.1 If a Hearing Panel is utilized:

- After the hearing has concluded, the three voting members of the Panel will deliberate in private.

- The Hearing Panel's decision as described in *Section 5.3* of these procedures will be by majority vote.

9.2 If a Non-affiliated Hearing Officer is utilized, they will make their decision alone.

9.3 The Hearing Panel/Non-affiliated Hearing Officer will communicate its decision by completing the hearing decision form and forwarding it to the Title IX Coordinator within three (3) business days of the hearing. If the decision is to remand the case to the Title IX office to correct an investigative error(s), the Hearing Panel/Non-affiliated Hearing Officer will indicate the error(s) to be corrected.

9.4 The Title IX Coordinator will provide a copy of the decision simultaneously to all parties involved in the Formal Complaint.

9.5 If the case is remanded to the Title IX office to correct an investigative error, a Title IX investigator will investigate and submit an Amended Notice of Finding(s) which includes the actions taken to correct the investigative error to the same Hearing Panel/Non-affiliated Hearing Officer for review. The parties will have five (5) business days to respond to the amended investigative report before it becomes final. Once the hearing is scheduled, the process will restart at *Section 5* of these procedures.

9.6 At the second hearing, testimony will begin with the Title IX investigator's presentation, and all parties will be given the opportunity to respond to the new information provided by the Title IX investigator, ask questions of the Title IX investigator, and present any relevant witnesses and/or information.

9.7 If the Hearing Panel/Non-affiliated Hearing Officer accepts or rejects The Title IX investigator's finding(s), any party or the Title IX office may appeal the decision of the Hearing Panel/Non-affiliated Hearing Officer to the appropriate administrator.

9.8 Any appeal must be filed in writing within five (5) business days of the Hearing Panel/Non-affiliated Hearing Officer's decision. If no appeal is filed by the deadline, the Hearing Panel/Non-affiliated Hearing Officer's recommendation(s) become final.

10. APPEAL

10.1 The role of the appropriate administrator is to accept, reject, or remand the Hearing Panel/Non-affiliated Hearing Officer's recommendation(s).

10.2 The appropriate administrator can remand the case back to the Title IX office if they find:

- An error or procedural defect occurred during the investigation that could have significantly impacted the Title IX investigator's finding(s); or
- Further investigation is warranted for any other material reason.

10.3 The appropriate administrator can reject the Title IX investigator's finding(s) if they find:

- The weight of the evidence does not support or is contrary to the Title IX investigator's finding(s); or
- An error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.

10.4 The appropriate administrator can remand the case back to the Hearing Panel/Non-affiliated Hearing Officer if they find an error or procedural defect occurred during the hearing that could have significantly impacted the Hearing Panel/Non-affiliated Hearing Officer's recommendation(s), or which caused harm to either party.

10.5 If the appropriate administrator accepts or rejects the Hearing Panel/Nonaffiliated Hearing Officer's recommendation(s), the decision becomes final.

10.6 The appropriate administrator will review the record on appeal which may include the case file, appeal documentation, and hearing recording only, and will render a decision within fifteen (15) business days from the date that the appeal is filed, with extensions for good cause allowed.

10.7 If the appropriate administrator extends the fifteen (15) day deadline, they must provide an explanation to the parties and the Title IX Coordinator in writing by that deadline and every ten (10) business days thereafter.

11. SANCTIONS AND REMEDIES

11.1 If there is a finding of a violation of this Policy, and any appeal of the finding has been exhausted, appropriate university action will be taken, and any sanction imposed on the Respondent(s) will be determined by and implemented by the appropriate administrator after consultation with the Title IX Coordinator.

11.2 If there is a finding of a violation of this Policy against a faculty member, any sanctions imposed on the faculty member will be determined and implemented by the appropriate administrator after consultation with the Title IX Coordinator and

consistent with the University's faculty handbook/manual.

11.3 If there is a finding of a violation of this Policy against a non-faculty University employee, any sanction imposed on the employee will be determined and implemented by the appropriate administrator after consultation with the Title IX Coordinator and consistent with the University's policies and procedures related to employee discipline.

11.4 If there is a finding of a violation of this Policy against a student, any sanction imposed on the student will be determined and imposed by the Dean of Students Office or its equivalent after consultation with the Title IX Coordinator and consistent with the University's policies and procedures related to student discipline.

11.5 The sanctions for committing an act of UH System Sexual Misconduct will be commensurate with the offense and may include, but are not limited to, the following:

- Probation (including disciplinary probation)
- Temporary or permanent ban from campus locations (such as residence hall communities)
- Educational programs such as state-certified batterer's intervention
- Ban from participating in campus organizations or activities
- Disqualification from employment or student leadership positions
- Withholding of transcripts, grades, diploma, or degree
- Partial or full criminal trespass
- Suspension from employment and/or enrollment
- Revocation of admission
- Termination of employment
    - For faculty members, the recommendation for termination of employment and/or revocation of tenure will be referred to the Provost's Office for handling in accordance with the policies and procedures pertaining to the dismissal of faculty members.
- Expulsion

11.6 If a student is issued a sanction that makes them ineligible to reenroll in the University, the University will include on the student's transcript a notation stating that the student is ineligible to reenroll in the University for a reason other than an academic or financial reason.

11.7 On the student's request, the University may remove the notation if the student is eligible to reenroll in the University or the University determines that good cause exists to remove the notation.

11.8 In accordance with Texas law, the University must terminate an employee who is found to have knowingly failed to make a report of Sexual Misconduct when the Responsible Employee was required to do so or knowingly made a false report of Sexual Misconduct with intent to harm or deceive. Knowingly failing to make a report and knowingly making a false report are criminal offenses under Texas law.

11.9 If a party is dissatisfied with a sanction determined by the appropriate administrator, they may appeal the sanction as follows:

- Any appeal to the sanction against a faculty member must be addressed through the university's faculty handbook/manual;

- Any appeal to the sanction against a non-faculty University employee must be addressed through the university's policies and procedures related to employee grievances; and

- Any appeal to the sanction against a student must be addressed through the appeal process in the university's Student Code of Conduct or its equivalent.

11.10 Remedies – Regardless of the finding(s), and in addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the University will take appropriate action(s) to resolve Formal Complaints of Sexual Misconduct, prevent any recurrence and, as appropriate, remedy any effects. These actions may include, but are not limited to the following:

- Ensuring the Complainant and Respondent do not share classes, working environments, or extracurricular activities;

- Making modifications to the on-campus living arrangements of a Respondent or Complainant (if the Complainant requests to be moved);

- Providing comprehensive, holistic victim services including medical, counseling, and academic support services such as tutoring;

- Determining whether the Sexual Misconduct adversely affected the Complainant's University standing;

- In conjunction with University leaders, conducting 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; or

- Providing targeted group training.

11.11 These remedies are separate from, and in addition to, any Supportive 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 a Supportive Measure, the Complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the Complainant declined as a Supportive Measures.

12. NOTIFICATION OF OUTCOMES

12.1 The Title IX Coordinator will simultaneously notify the Complainant and the Respondent(s) in writing of the outcome of the following stages of the process:

- The initial finding(s), including a rationale;

- The procedures to appeal a finding;

- The outcome of any appeal, including any changes to the finding(s);

- Any interim sanctions imposed;

- Any changes to interim sanctions;

- The final outcome of the Formal Complaint;

- Any imposed sanctions, including a rationale;

- When the outcome is final; and

- Changes to sanctions related to the party once the outcome is finalized.

- These notifications may be combined if they occur at the same time.

12.2 The University will provide information regarding remedies available such as those discussed in Section 8 Immediate Assistance above. If a hostile environment was found to exist, the University will notify the Complainant of any additional steps the University has taken to eliminate the hostile environment and to prevent

recurrence.

12.3 On request by another postsecondary educational institution, the University will provide to the requesting institution information relating to a determination that a University student violated the Sexual Misconduct Policy.