

**PSYCHOLOGY INTERNSHIP POLICY MANUAL**

**2020-2021**

**DEPARTMENT OF PSYCHIATRY AND BEHAVIORAL SCIENCES  
SCHOOL OF MEDICINE  
UNIVERSITY OF TEXAS HEALTH SAN ANTONIO**

**SCIENTIST-PRACTITIONER MODEL APA-ACCREDITED PROGRAM**

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## **INTERN RECRUITMENT AND SELECTION**

Recruitment materials outlining the program are available through our website at [http://psychiatry.uthscsa.edu/Clinical\\_Psychology/Clinical\\_Psychology\\_Home.asp](http://psychiatry.uthscsa.edu/Clinical_Psychology/Clinical_Psychology_Home.asp) and through the APPIC Directory at <https://membership.appic.org/directory/display/505>. Interested applicants are encouraged to submit their AAPI through the APPIC portals. Please reference our website for application and interview deadlines. Every application that is submitted by the application due date is reviewed by either the Training Director or the Associate Training Director. In addition to the prior doctoral program requirements outlined below, preferences are given to individuals with clinical training experiences, research activities, and/or professional goals that match one or more of our tracks (i.e., Child, Adolescent, and Family; Cognitive Behavioral; Forensic; and Integrated Primary Care Behavioral Health). For example, applicants with clinical child experience will be viewed more favorably for the Child, Adolescent, Family Track than applicants without child experiences.

Some applicants will be invited to attend a 1/2-day interview at the University of Texas Health San Antonio between January and February. During that 1/2 day, applicants will meet as a group for orientation to the program, have an opportunity to meet with current interns to ask questions, and interview with faculty and the internship directors. For individuals who are bilingual in Spanish and applying for the Integrated Primary Care Behavioral Health Track, faculty interviews may be conducted in Spanish. However, it is important to note that the ability to speak Spanish is not a requirement for any tracks within our internship.

During each interview, interns are scored on a 11-point Likert rating scale (0-10, where 0 = Poorly Qualified and 10 = Extremely Well Qualified) for how well their qualifications and training goals match with the training program. Weighted scores are averaged across interviewers and are used to inform the rank list. Track Coordinators provide input on the rank list before the list is officially entered into the APPIC Match.

If the training program is required to enter Match II to fill all internship slots, guidelines established by the APA COA and APPIC will be followed. In general, every application will be reviewed by the Training Director or Associate Training Director. Eligible applicants will be invited to participate in a one-hour telephone interview with the training directors and a one-hour telephone interview with track-specific faculty.

## **APPLICATION PROCESS DURING COVID-19 PANDEMIC**

Due to COVID-19, there will be no in-person interviews this interview season. More information about the training experience during the pandemic are outlined in our COVID-19 policy belows. Importantly, this information is fluid and training sites may implement greater restrictions or loosen restrictions based upon COVID-19 cases in our community with the goal of providing in-person services when it is safe for our interns, faculty, staff, and patients. Thus far, our program has had no delays with start dates or end dates due to COVID-19 restrictions. All previous interns were able to graduate the program on time. Applicants are encouraged to reach out to the program regarding specific questions about our training program during the pandemic.

The internship year begins on July 1 and ends June 30. Applicants will be invited to apply to one or more tracks and are encouraged to rank one or more tracks if interested. Some applicants will be invited to attend an interview through Zoom. Applicants invited to interview will speak with a current intern, faculty, and the training directors in separate interviews via Zoom. There will be additional "Open

Houses” for each track to provide interns the opportunity to hear more about the track and sites in a less formal setting. The Open Houses are not mandatory; however, they are encouraged. Invites for the Open Houses will be sent once interview dates are scheduled.

Additionally, we ask that all applicants review the following video, “UT Health Psychology Internship Program” (link) prior to attending the Zoom Open House and individual Zoom interviews with faculty, interns, and the training directors. This video provides an orientation to our program with more detail about our tracks and sites. Some of our tracks may also developed videos to describe their services and training opportunities. Please see the links next to each track name for more in-depth introductions to our tracks. Orientation dates and interview dates are published on our website.

Application Deadline: 05 December 2020

Interview Notification: 08 December 2020

## **TRAINING EXPERIENCES DURING COVID-19 (DATE: 8/1/2020\*)**

Please notice that the UT Health San Antonio Clinical Psychology Interns have had no difficulties maintaining their training or accruing training hours during the pandemic. All previous interns have graduated on-time with a modified training schedule to ensure the safety of our interns, faculty, staff, and patients.

UT Health San Antonio Clinical Psychology Interns are considered “**essential personnel**”.

### **Safety Precautions:**

Upon entering the building, individuals are asked if they are experiencing symptoms and temperatures are checked. Masks are required on campus and during patient visits. Face shields are also required during in-person visits. Personal protective equipment (PPE) has been provided for interns. Waiting rooms, patient rooms, and provider offices have been configured to maintain social distancing and are being sanitized frequently. Individuals accompanying patients to visits and in-patient visits have been minimized. There are frequent sanitation stations available with hand sanitizer. Large group meetings (with more than 10 individuals) are prohibited.

### **Rotation Sites by Track:**

#### **Child, Adolescent, and Family Track**

**Clarity Child Guidance Center:** Currently, the majority of psychotherapy cases are being provided via telepsychology but this can increase or decrease in response to changes in COVID-19 data trends. At this time, psychological testing cases are being seen in-person; however, testing cases may decrease if city lockdowns occur. Clarity has a COVID-19 group that meets twice weekly and consists of executive leadership and department directors. They review current city and county COVID data and guidelines and discuss information relevant to operations, such as infections data for staff and patients, changes in procedures and reports from the Infection Control Officer. Relevant information from those meetings is disseminated to all staff via email and an all-staff text messaging system. Psychology interns will be provided ample PPE. Clarity’s leadership is committed to a collaborative approach for establishing internal COVID-19 guidelines, including welcoming input from psychology interns.

#### **Forensic Track**

**Kerrville State Hospital (KSH):** Psychology interns are working in-office at Kerrville State Hospital. However, KSH has the ability to have interns work from home (3-days at home; 2-days in-office) if there is a surge in COVID-19 cases.

### **Integrated Behavioral Health Primary Care Track**

**Department of Family and Community Medicine:** Psychology interns provide a mix of in-office patient care (50%) and care through telehealth (50%). These percentages can (and have been adjusted) based upon city closures. Interns are given PPE to wear during face-to-face encounters with patients daily (i.e., face shield and surgical masks). Patients who are seen at the Family Health Center are also required to wear a surgical mask (provided to patients upon entry into the clinic daily) during the entire patient encounter (and when in the clinical building) in order to receive care face-to-face from providers.

**Center for Health Care Services:** Psychology intern is providing services through telehealth at this time which follows the CHCS COVID-19 protocol for both Primary Care and outpatient psychiatric services. The psychology intern is reporting on-site daily to manage telehealth visits and clinical tasks. The psychology intern may be approved to work from home to manage visits as COVID-19 remains a concern or surges. This can (and has been adjusted) based upon city closures.

### **CBT Track**

**San Antonio State Hospital:** Psychology interns provide a mix of in-office patient care and care through telehealth. Currently, the intern is on-site 1-day per week.

**STRONG STAR:** As part of the Intensive Outpatient Program (IOP), interns see patients in-person. Patient load is low and generally consists of 1-2 patients at a time. If no patients are currently enrolled in the IOP, interns may be given permission to work from home while COVID-19 remains a concern.

**Student Counseling Center:** Psychology interns provide all care through telehealth. Currently, the intern is on-site 1-day per week.

**Transitional Care Clinic:** Currently, 50% of patients are seen in-office while 50% are seen through telehealth. During COVID-19 surges, telehealth services may be expanded.

### **Group Experiences:**

**PCIT:** PCIT supervision can be conducted through telehealth during COVID-19 surges. However, treatment is currently being conducted in person. Providers and families will be required to wear masks and engage in regular hand washing. Toys will be disinfected between uses. The risks and benefits of in-person treatment will be monitored closely and regularly.

**DBT:** All DBT groups are being conducted via telehealth.

**RAMP/CHAMP:** Currently RAMP/CHAMP is being conducted exclusively through telehealth.

**Clarity Groups:** Due to the current pandemic, groups at Clarity are not being offered at this time. Groups at Clarity will resume once the pandemic is well-controlled.

### **Additional Patient Care:**

**Advance Clinic:** Psychology interns are seeing patients in the Advance Clinic both in-person and through telehealth. This decision is based upon the preferences of the patient. Currently, approximately 75% of Advance Clinic patients are being seen via telehealth while approximately 25% are being seen in-office.

**Didactics:** Tuesday didactics and internship meetings are currently being conducted through zoom. This is likely to be the case until at least January 2021.

**Supervision:** Psychology intern supervision is being provided in a variety of ways. This includes in-person, telephone, and through telehealth platforms.

Please visit UT Health San Antonio's COVID-19 webpage for updates:

<https://wp.uthscsa.edu/coronavirus/>

**\*Note:** This is a living document and is up to date based upon current COVID-19 surges in our community and based upon the recommendations of UT Health San Antonio in conjunction with the city of San Antonio, and Centers for Disease Control. The internship expects that as COVID-19 cases decrease and when a vaccine becomes available, in-person treatment will increase.

## **PRIOR DOCTORAL EXPERIENCE**

Our internship accepts students from APA- or CPA-accredited doctoral programs (PhD or PsyD) in clinical, counseling, and school psychology. Applications from non-accredited programs will not be accepted. Applicants must have three years of graduate training, have passed their comprehensive exams, and have an approved dissertation proposal.

## **FINANCIAL AND OTHER BENEFIT SUPPORT**

This 12-month, full-time internship pays an annual salary of \$25,000. Paychecks will be issued by the University of Texas Health San Antonio at the beginning of each month starting in August. UT Health San Antonio also provides employees access to individual medical insurance at no cost. Medical insurance coverage of dependents, legally married partners, or domestic partners with declaration of informal marriage documentation may be purchased by the intern. Interns, who are student affiliates of the American Psychological Association, also receive paid malpractice insurance during their year of employment. Additional benefits provided by the program includes \$500 support for professional development (e.g., attending psychology conference) and \$100 for professional books and/or treatment manuals. Program-provided benefits (i.e., professional development and library funds) are dependent on the availability of departmental funding and is not guaranteed. Professional development activities and professional books must be pre-approved by the training directors for interns to receive reimbursement.

## **REQUIREMENTS FOR SUCCESSFUL INTERNSHIP PERFORMANCE**

The goal of the internship training program is to prepare interns for the next step in the licensure process and to function as an entry level professional by providing a breadth of knowledge and training experiences through a generalist training program. To evaluate whether an intern is ready to function as an entry level professional, the following Internship Competencies will be assessed: Research, Assessment, Psychological Intervention, Consultation, Professionalism, Individual and Cultural Diversity, Ethical and Legal Standards, Supervision, and Communication and Interpersonal Skills. Competencies may be evaluated in one or more of the following ways: formal demonstration of skill or knowledge; direct observation of daily work; video/audio tape review; case conferences; assessment reports; case studies; process notes; case notes in

professional/medical record; during supervision; and, through feedback from others.

These areas of competence are evaluated formally using the Competency Assessment Form (Current Version: January 2020). Please refer to this form for a detailed description of each area of competence and a list of evaluation items. Each item is rated using an inverse 4-point scale (see below). Raters may also endorse “N/A” if the item is not applicable for the training experience or not assessed during the evaluation period.

4	<b>Needs Remedial Work.</b> Intern requires remedial training. Serious concerns about professional, ethical, or clinical behavior have been noted.
3	<b>Passing.</b> Common rating for beginning of internship. Minimal level of performance needed to pass rotation. Common rating for beginning of new rotation. Needs frequent in-depth supervision on most cases.
2	<b>Successful.</b> Common rating throughout internship. Routine supervision of each activity is needed. Generally exercises good clinical and professional judgment and seeks supervision when needed.
1	<b>Excellent.</b> A frequent rating at the completion of internship and/or rotation. Exceeds standards expected of intern. Can perform tasks independently most of the time. Supervision focuses on the most difficult cases. Intern is ready for entry level practice.
N/A	<b>Not applicable for this training experience or Not assessed during this evaluation period.</b>

Minimal levels of achievement for completion include the following: 1) Interns will be rated at a level of competence of “3” or lower during the first three quarterly evaluations and 2) Interns will be rated at a level of competence of “1” for at least 80% of all objectives at the 12-month evaluation. A rating of “4” on a quarterly evaluation during the first three quarterly evaluations will result in a remediation plan. Supervisors are instructed to list specific areas of competence which must be addressed as part of a remediation plan should a rating of “4” be given. A rating of “4” on the final evaluation may result in not passing the internship year.

## INTERN PERFORMANCE EVALUATION

Each clinical assignment (e.g., primary rotation site, Advance Clinic, groups) will have a designated faculty supervisor. It will be the responsibility of the supervisor of each activity to provide ongoing evaluation and supervision of the intern assigned to him/her. Prior to each evaluation the supervisor is to provide a formal evaluation of the intern's work to him/her. The format of this evaluation rests with the supervisor but will include an open discussion of the ratings with the intern and include corrective feedback where applicable. The intern will then provide his/her mentor the evaluation and feedback that he/she has received from each of his/her supervisor(s). Evaluations by faculty should stress proposed corrective action. These evaluations should be written, discussed, with a copy given to the intern. Both intern and supervisor will make comments about the evaluation feedback session and sign the evaluation form. A copy will also be placed on file with the training directors.

Informal evaluations of the interns will be presented to the training committee during monthly meetings. Formal evaluations of the intern will be presented to the training committee quarterly. Evaluative feedback of the intern’s progress will be shared with his/her doctoral program after his/her six-month evaluation and at the end of the training year.

## **INTERN FEEDBACK**

Interns will be asked to evaluate Tuesday morning seminars throughout the year. Interns will also evaluate each supervisor, mentor, and rotation at the conclusion of the training experience. These evaluations will be turned into Sandy Collazo, the program administrator, who will place the evaluations in a sealed envelope. Program evaluations will not be examined until after the internship year has ended and the interns have left the training program.

## **REMEDICATION, RETENTION AND TERMINATION DECISIONS**

Clinical supervisors routinely observe their interns' clinical skills and professional behaviors through direct observations, review of clinical documentation, and during supervision and/or professional meetings. These observations are used to provide interns with regular verbal feedback about their progress as well as formal written feedback every three months. As such, an intern's problematic behavior and/or failure to make progress will most likely be identified by a clinical supervisor and/or the training directors. While the clinical progress and professional behaviors of each intern is discussed during monthly training meetings, concerns about an intern can be communicated between monthly Training Committee Meetings through email and/or telephone calls between the clinical supervisor(s) and the training directors. When needed, the training directors will schedule meetings with relevant supervisor(s) and mentor to discuss the training needs of an individual intern.

Concerns regarding an intern's progress or behavior (i.e., failure to meet minimal levels of competence on the quarterly evaluations, professional issues, or ethical violations) will be discussed by the Training Committee during monthly training committee meetings. Concerns judged by the Training Committee to be significant and in need of remedial action will be managed in the following manner:

1. (a) When a concern is judged by the Training Committee to be significant enough to warrant corrective action by the intern, the intern's mentor will meet with the intern to explain the concern and to develop a plan for informal remediation.

- (b) If the concern cannot be resolved by this means, then the Training Director of the Psychology Internship Training Program and the mentor will meet with the intern for further counseling. The intern will receive a written explanation of the concern and a written plan for remediation. A copy of this document will be sent to the home graduate school. The Training Director will instruct the mentor to monitor the intern's corrective action and will warn the intern that he/she will be placed on probation should sufficient corrective action not occur.

2. (a) If the concern persists, the Training Committee will meet to consider formal probation. Before that meeting, the Training Director will have sent the home graduate school a copy of the written explanation of the concern and the plan for remedial action. Additionally, the Training Director will receive input from the home graduate school and will present this input to the Training Committee as part of the deliberation. The intern will be asked to attend the Training Committee meeting to present his/her arguments against probation. Probation will be decided by a simple majority vote of the Training Committee. Failure of the intern to successfully remediate the concern while on probation may result in the failure to successfully complete the Psychology Internship Program or the termination of the intern from the Psychology Internship Program.



(b) Failure of the intern to successfully complete the program will be determined by simple majority vote of the Training Committee. Prior to this meeting, the Training Director will have already provided the home graduate school with a written copy of the concern and remedial steps (done during the probation phase). As an additional step, the Training Director will inform the home graduate school of the possible action by the Training Committee and will seek further input from the home graduate school. The input will be introduced into deliberation by the Training Director. As in the case of probation, the intern will be asked to attend the Training Committee meeting in order to present arguments against failure to complete the program. The Training Director will inform the home graduate school regarding the final decision. The intern may appeal the decision as outlined in the Appeal Process.

3. In the event that the concern is judged by the Training Committee to be as highly significant as to merit an immediate termination hearing, all the steps leading to probation will be omitted. In such a case, the Training Director will communicate the concern to the home graduate school in writing and will seek their input. Termination will be decided by a simple majority vote of the Training Committee. The intern will be asked to attend the Training Committee meeting to present arguments against termination. The intern may appeal the decision as outlined in the Appeal Process.

It is anticipated that a move for direct termination without probation will be an extremely rare event. It is anticipated that such action would occur only as a consequence of the intern's serious ethical or professional misconduct.

THE APPEAL PROCESS: Should the Training Committee recommend failure to successfully complete the training program or termination from the program; the intern may invoke the right of appeal. As in consistent with policy of all departments of The University of Texas Health San Antonio, the appeal will be made to a departmental body, in this case the Clinical/Academic Coordinating Committee and Program Coordinating Committee of the Department of Psychiatry and Behavioral Sciences. These Committees are chaired by the Chairman of the Department of Psychiatry and Behavioral Sciences and includes other members of the Department. In the event of an appeal hearing, the Chairman may appoint other members to these Committees. Committee members and additional appointees will be members of the staff who are not involved in the Training Committee and who have not been directly involved with the issues of the case. The decision to recommend failure of the training program or to recommend termination from the program will be decided by simple majority vote.

The Training Director of the Training Program will be on hand to present the position of the Training Committee, and the intern, together with any counsel he or she may choose, shall present the appeal. The Training Committee will abide by the judgment of the appeal panel. In the event that the appeal panel recommends continuation of the intern's training program, the Training Director and the intern's mentor will negotiate an acceptable training plan for the balance of the training year. If the decision is for failure of the year or for immediate termination, the Training Director of the program will execute whatever details may be necessary. The Training Director of the Psychology Internship will communicate results of the appeal to the home graduate school.

In addition to the internship's policies and procedures for remediation, retention and termination, the program also follows policies and procedures established by UT Health San Antonio's HOP on progressive disciplinary and employee dismissal.

## PROGRESSIVE DISCIPLINARY ACTION (HOP 4.9.3)

### **Policy**

A. It is the policy of UT Health San Antonio to encourage fair, efficient, and equitable solutions for matters arising out of the employment relationship and to meet the requirements of state and federal law.

B. This policy is applicable to the conduct and/or job performance of an employee that results in a decision to impose a disciplinary penalty.

C. Disciplinary action is to be considered as primarily corrective; thus, dismissal will generally be resorted to only after corrective or rehabilitative methods have failed, unless the offense in itself is sufficiently serious to warrant dismissal in accordance with the policies and procedures described in this policy and Section 4.9.4, "Procedures for Dismissal of Employees", in the Handbook of Operating Procedures (HOP).

### **Applicability**

A. This policy applies to all staff employees of UT Health San Antonio with the exception of the following:

1. Employees who are commissioned University Police Officers who are subject to other approved discipline procedures.

2. Employees who are appointed to positions without fixed terms and under applicable rule or regulation serve at the pleasure of a specific administrative officer.

3. Employees who are appointed for a period less than 180 days.

4. Employees who are appointed at a per diem or hourly rate and work on an as needed basis.

### **Documentation**

A. Supervisors should keep a written record of the performance and conduct of each employee who they supervise directly. Such documentation is necessary to prepare an accurate performance evaluation and to serve as a justification for undertaking disciplinary action. Documentation is defined as maintaining a written record of the job performance and conduct of an employee. Documentation should include the date of an occurrence, the employee's name, a narrative description of the action that is being recorded, and any other relevant material. Personal and unrelated comments should not be included in such documentation. UT Health San Antonio employees have the right to examine such documentation when it is being used as a basis for disciplinary action.

### **Required Standards of Conduct**

A. Employees are expected to understand the performance expectations for his/her particular job.

B. Employees are expected to comply with all rules, procedures, and standards of conduct established by the Board of Regents of The University of Texas System, UT Health San Antonio, and the employee's department or unit.

C. Employees who do not meet performance expectation or comply with rules, procedures, and standards of conduct may be subject to disciplinary action up to and including termination.

**Conduct Subject to Disciplinary Action**

A. Employees are expected to maintain standards of conduct suitable and acceptable to the work environment. Disciplinary action, including dismissal, may be imposed for unacceptable conduct.

Examples of unacceptable conduct include, but are not limited to:

1. Failing to meet work performance expectations.
2. Falsifying time sheets, personnel records including job application, or other institutional records including falsification of military records.
3. Neglecting duties or wasting time during working hours.
4. Gambling/ participating in lotteries or any other games of chance on the premises at any time.
5. Soliciting, collecting money, or circulating petitions on the premises other than within the rules and regulations of UT Health San Antonio.
6. Bringing intoxicants or drugs onto the premises of UT Health San Antonio, using intoxicants or drugs, having intoxicants or drugs in one's possession, or being under the influence of intoxicants or drugs on the premises at any time.
7. Abusing or wasting tools, equipment, fixtures, property, supplies, or goods of UT Health San Antonio.
8. Creating or contributing to unhealthy or unsanitary conditions.
9. Violating safety rules or accepted safety practices.
10. Failing to cooperate with the supervisor or a co-worker, impairment of function of work unit, or disruptive conduct.
11. Exhibiting disorderly conduct, harassing employees (including sexual harassment), or using of abusive language on the premises.
12. Fighting, encouraging a fight, or threatening, attempting, or causing injury to another person on the premises.
13. Failing to meet a reasonable and objective measure of efficiency and productivity.
14. Participating in any act of theft, dishonesty, or unauthorized use of UT Health San Antonio property including records and confidential information.
15. Creating a condition hazardous to another person on the premises.
16. Destroying or defacing UT Health San Antonio property or records or the property of a student or employee.
17. Refusing to follow instructions or to perform designated work that may be required of an employee or refusing to comply with established rules and regulations.

18. Repeated tardiness or absence, absence without proper notification to the supervisor, or without satisfactory reason or unavailability for work.

19. Violating policies, procedures or rules of UT Health San Antonio or The University of Texas System.

### **Progressive Disciplinary Action - Investigation**

A. The employee's supervisor or other designated individual shall impartially investigate all incidents that involve the potential for disciplinary action.

B. If the circumstances warrant further investigation, after obtaining the concurrence of Human Resources, an employee may be immediately placed on administrative leave with pay pending completion of an investigation.

C. If the investigation results in evidence that establishes with reasonable certainty that the employee engaged in conduct that warrants disciplinary action, the supervisor shall follow the progressive disciplinary process described below.

### **Coaching**

A. Coaching occurs when a supervisor meets with an employee and discusses the employee's need to improve their job performance conduct, and/or expectations.

B. Coaching is not subject to a grievance based upon the fact that it is considered a coaching session. However, all sessions should be thoroughly documented by the supervisor and maintained in the employee's departmental personnel file.

C. Documentation of coaching sessions can be used as a basis for disciplinary action if performance and/or conduct continues to be an issue.

### **Written Warning**

A. A written warning is appropriate in instances in which an employee has failed to respond to coaching or has committed an offense or violation which is, in itself, sufficiently serious to warrant more than coaching but less than suspension without pay or dismissal.

B. Written warnings should be presented in a written document to the employee, outlining the infraction and related policy/procedure. The written warning should also include a statement that indicates any future disciplinary action may include termination/dismissal from employment.

C. A copy should be retained in the employee's personnel file held by the department.

### **Suspension without Pay**

A. A suspension without pay is appropriate in rare instances which an employee has failed to respond to a written warning(s) or has committed an offense or violation which is, in itself, sufficiently serious to warrant more than a written warning but less than dismissal.

B. All offenses and/or violations resulting in suspension should be thoroughly documented and investigated and discussed with the Vice President & Chief Human Resources Officer or his/her delegate.

C. Suspensions should be presented in a written document to the suspended employee. The document should outline the specific incident, conduct, or unsatisfactory work performance, the specific period of suspension, not to exceed one month, and the related rule, regulation, or policy.

D. If it is determined, upon grievance, that a suspension was not for good cause, the employee shall be reinstated to the same position and shall be entitled to payment of back wages.

E. An employee suspended without pay continues to accrue sick and vacation leave, to be covered under group insurance, and to be entitled to other employee benefit programs.

### **Dismissal**

A. A dismissal is appropriate in instances in which an employee has committed a single grave offense or through progressive discipline. B. No supervisor should dismiss an employee prior to conforming to the required procedural steps described in Section 4.9.4, “Procedures for Dismissal of Employees”, of the HOP.

### **PROCEDURES FOR DISMISSAL OF EMPLOYEES (HOP 4.9.4)**

**Policy:** It is the policy of UT Health San Antonio to encourage fair, efficient, and equitable solutions for matters arising out of the employment relationship and to meet the requirements of state and federal law.

### **Applicability**

A. This policy is applicable to the conduct or job performance of employees that results in dismissal.

B. This policy does not apply to:

1. Commissioned University Police Officers who are subject to other approved discipline or dismissal procedures.
2. Employees on suspension with pay pending investigation of allegations.
3. Employees with fixed term appointments for a stated period of one year or less that expires at the end of such period without the necessity of notice of nonrenewal as provided in the Regents’ Rules and Regulations or the rules and regulations of UT Health San Antonio.
4. Employees who are appointed to positions without fixed terms and, under applicable rule or regulation, serve at the pleasure of a specific administrative officer.
5. Employees who occupy positions that are dependent upon funding from a specific source and such funding is not received.
6. Employees dismissed as a result of reorganization.
7. Employees dismissed because of financial exigency.
8. Employees dismissed during the 180-day probationary period.
9. Employees appointed for a stated period that is less than 180 days.

10. Employees appointed at a per diem or hourly rate and work on an as needed basis.

### **Dismissal**

A. All dismissals must be reviewed by the Vice President & Chief Human Resources Officer or his/her delegate, and the department head prior to employee notification.

### **Intent to Term**

A. The supervisor shall inform the employee of the basis for any planned disciplinary action resulting in dismissal and allow the employee the opportunity to respond before a final decision is made. The notification serves as an opportunity for the employee to present additional information to their supervisor for consideration.

B. Before reaching a final decision to dismiss the employee:

1. The supervisor shall inform the employee in writing, of the factual basis for the planned dismissal.

2. The employee may request access to information the supervisor used to make their decision.

3. The employee shall have an opportunity to respond in writing to the supervisor about the planned dismissal within two business days. The employee has the opportunity to provide additional information stating why the facts for which the planned dismissal action is unwarranted.

C. If upon review of the employee's response, the decision to dismiss still stands, the supervisor, after confirming with Human Resources, may proceed with dismissal.

### **Appeals:**

A. Dismissal may be appealed by the affected employee pursuant to the process set out below. The time limits set forth in the appeal procedure must be complied with by both the employee and the appropriate supervisory and administrative leaders unless extended for good cause by the Vice President & Chief Human Resources Officer. Failure by the employee to process the appeal in a timely manner to the next level constitutes a withdrawal of the appeal. Failure of the supervisor or administrative leader to make a timely response to an appeal shall constitute authorization for the employee to appeal to the next step. The employee's appeal shall contain:

1. A clear and concise statement of why the dismissal disciplinary action is inappropriate;

2. The reason(s) the employee believes the dismissal action decision should be changed;

3. The name(s) of any witnesses that may have information relevant to the employee's dismissal action;

4. The specific remedy sought by the employee;

5. Any additional relevant information to be considered in support of the employee's written appeal; and, the name and contact information of the employee's representative, if any.

B.

Procedural Step	Appeal Timeframe for Employee	Response Timeframe for Leadership
Step One: Next Level Up of Leadership (example: Manager)	Five (5) working days from date of disciplinary action to initiate a written appeal	Ten (10) working days from date of receipt of appeal to respond in writing
Step Two: Next Level up of Leadership (example: Director/Chair)	Five (5) working days from date of Step One response	Fifteen (15) working days from date of receipt of Step Two appeal
Step Three* Next Level up of Leadership (example: VP/Dean)	Five (5) working days from date of Step Two response	Thirty (30) working days from date of receipt of Step Three appeal

\*The highest level of review for appeal is the respective Executive Committee Member.

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

## **GRIEVANCE PROCEDURES**

The information below outlines the Internship's Grievance Procedures. This procedure works in conjunction with the University's Grievance Policy and Procedures (HOP Policy 4.9.5).

### CLINICAL PSYCHOLOGY INTERNSHIP GRIEVANCE PROCEDURES

Grievance Format: An intern grievance should consist of two elements. 1. Grievances should contain a clear and concise statement that explains the specific complaint. 2. Grievances should also contain the intern's recommendation for attaining a sufficient remedy of the complaint.

No intern will be penalized, disciplined, or prejudiced for exercising the right to file a grievance. Grievances regarding training issues are handled informally and formally through the following procedures:

1. The intern is encouraged to discuss any grievances with the individuals involved (be it supervisor, mentor/preceptor, training directors, or fellow intern) to work toward a solution. An intern is encouraged to reach out to their mentor/preceptor (if the grievance is not related to the mentor/preceptor) who can help to initiate an informal discussion with both parties to work toward a solution. If the grievance involves the mentor/preceptor, the intern is encouraged to reach out to the training directors.
2. If this informal route does not remedy the grievance, the intern and/or mentor/preceptor inform the training directors of lack of success toward working out an informal solution to the grievance. The training directors will initiate an informal discussion with the individuals and work toward a resolution.
3. If the informal procedures do not remedy the grievance, the training directors will contact the UT Health San Antonio Psychiatry Residency Training Director (Dr. Jason Schillerstrom) and inform him of the grievance. The Psychiatry Training Director is an unbiased member of the Psychiatry's Department Education Leadership Committee while having sufficient knowledge of the program's training requirements.

4. The Psychiatry Training Director will meet with the intern to discuss the grievance as well as to discuss failed informal attempts to resolve the grievance. The intern will present the Psychiatry Training Director with a written description of the grievance along with details regarding failed attempts to resolve the grievance. The Psychiatry Training Director will reach out to the individuals involved in the grievance to resolve the matter. The Psychology Training Directors will be present during these meetings.
5. Complaints not satisfactorily resolved by the Psychiatry Training Director may be appealed in writing to the Psychiatry Department Chair (Dr. Steven Pliszka). This written appeal will state why the appealed decision is not correct. The Psychiatry Department Chair will prepare a decision for the intern. This decision is final.
6. The written grievance and all decisions or responses regarding a complaint shall be filed by the Training Directors for use as part of accreditation by the APA and therefore the Training Directors should be cc'ed on all correspondence regarding any grievances.

\*Any grievances regarding sexual harassment or other equity/discrimination matters should be reported to your Preceptor/Mentor, Training Directors and the Office of Human Services Equal Employment Opportunity/Affirmative Action as stated in the Student Handbook.

Interns may also contact Dr. Bonnie Blankmeyer ([Blankmeyer@uthscsa.edu](mailto:Blankmeyer@uthscsa.edu); 210-567-2691) as part of her role as the Executive Director of the Academic, Faculty, and Student Ombudsperson and ADA Compliance Office for additional support.

Please see <https://students.uthscsa.edu/studentlife/2016/11/student-ombudsperson/> for more information regarding assistance the Ombudsperson can provide.

#### GRIEVANCE POLICY AND PROCEDURES (UTHSCSA HOP 4.9.5)

**Policy:** It is the policy of the Health Science Center to encourage fair, efficient, and equitable solutions for problems arising out of the employment relationship and to meet the requirements of state and federal law.

**Applicability:** The complaint of all employees including faculty, probationary employees, temporary employees, and those hourly or per diem employees who work on an as needed basis will be considered pursuant to the procedure provided below.

**Scope:** Complaints concerning wages, hours of work, working conditions, performance evaluations, merit raises, job assignments, reprimands, the interpretation or application of a rule, regulation, or policy, or allegations that the termination of a probationary or temporary employee or an hourly or per diem employee who works on an as needed basis was for an unlawfully discriminatory reason shall not be processed through discipline and dismissal policy and procedures. Such complaints will be considered on an informal basis in order to allow prompt correction or explanation of the subject of the complaint. All discrimination issues are covered under Section 4.2.1, "Nondiscrimination Policy and Complaint Procedure", of the Handbook of Operating Procedures (HOP).

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



### Procedures for Bringing a Grievance

1. The employee shall informally present the complaint to his/her supervisor for discussion, consideration, and resolution within five (5) working days from the date of the action which is the subject of the complaint. If the supervisor is the subject of the complaint, the employee may address the complaint to the appropriate department Chair or Director.
2. If the complaint is not satisfactorily resolved by the supervisor within five (5) working days, the employee may present the complaint in writing within five (5) working days to the department Chair or Director for consideration and action. A written decision will be mailed to the employee within ten (10) working days of receipt of the complaint.
3. Complaints not satisfactorily resolved by the department Chair or Director may be appealed in writing to the appropriate Vice President or Dean for the employee's department with a copy to the President, within five (5) working days of the date of the appealed decision. The appeal shall state why the appealed decision is not correct. Within a reasonable time, not to exceed thirty (30) days following receipt of the appeal, the Vice President or Dean, with the concurrence of the President, shall prepare and mail a written decision to the employee. This decision is final.
4. The written grievance and all decisions or responses regarding such complaint shall be a part of the personnel file of the employee. Therefore, the Vice President for Human Resources shall be copied on all grievance actions by the employee and the department on a timely basis.

**Grievance Format Defined:** An employee grievance shall consist of two elements. Grievances shall contain a clear and concise statement that explains the specific complaint. Grievances shall also contain the employee's recommendation for attaining a sufficient remedy of the complaint.

### Summary of Grievances Steps

<u>PROCEDURAL STEPS</u>	<u>GRIEVANCE TIMEFRAMES</u>	<u>RESPONSE TIME FRAMES</u>
<b>STEP ONE</b>		
Immediate Supervisor (informal, unwritten basis)	Five (5) working days to verbally initiate a grievance	Five (5) working days to verbally respond
<b>STEP TWO</b>		
Department Chair/Director (formal, written basis)	Five (5) working days to appeal the response in writing	Ten (10) working days to respond to the appeal in writing
<b>STEP THREE</b>		
Dean/Vice President (formal, written basis)	Five (5) working days to appeal the response in writing with copy to the President	Thirty days to make a final response to appeal in writing with the concurrence of the President

## **SUPERVISION REQUIREMENTS/EVALUATION**

Each intern is required to receive 4 hours of supervision per week. At least two of these hours will consist of individual supervision by a licensed psychologist. Interns are required to complete a weekly supervision log. The training directors monitor supervision hours weekly. It is the responsibility of the intern to talk to their site supervisors if they are not receiving the required weekly supervision hours. If the intern is not able to rectify the shortage of supervision hours with their site supervisor directly, the training directors will meet with intern and site supervisor to ensure that appropriate supervision is being provided.

PRECEPTOR/MENTOR. Additionally, each intern is assigned a mentor to provide continuity, clarification, and coordination of the trainees' experience. The mentor chosen, when possible, has additional supervisory responsibilities for the intern. Except under extraordinary situations, faculty with less than one year's experience in the program will not serve as mentors. The mentor will schedule time to meet with the intern. In the beginning of the year, meetings may happen weekly, but as the year progresses, meetings with the mentor may be less frequent. After each rotation, the mentor will lead a faculty discussion of his/her mentee and obtain a consensus of the faculty's views. The Internship Director or Associate Director will write the home graduate school regarding evaluation after the mid-year and end-of-year evaluation. The Internship Director or Associate Director, with input from the mentor, will write a final evaluation at the end of the internship year reflecting a consensus of the faculty's views. This final evaluation is discussed with the intern and will be sent to the intern's graduate school. Should an intern and/or mentor (or supervisor) feel that their working relationship is unproductive, they should discuss this with the Internship Directors. The Internship Directors will attempt to facilitate the relationship between mentee and the mentor (or supervisor). If this is unsuccessful, a change in intern/mentor (or supervisor) assignment can be made.

## **MAINTENANCE OF RECORDS**

The program maintains a permanent record of interns' training experiences during their internship year. The contents of these records include but is not limited to the following items: the intern's AAPI, the internship contract/welcome letter, quarterly evaluations, communication with the intern's doctoral program, remediation plans (as needed), and certificate of completion. The content of these records is considered confidential and are securely maintained. Access to these records is limited to internship leadership. However, individual records may be reviewed by the training committee, university leadership, or representatives of the internship's accrediting body (i.e., APA COA).

Interns are strongly encouraged to maintain a record of their own, including keeping a copy of their Certificate of Completion for future use (e.g., licensure, credentialing). However, interns may request copies of the documents maintained in their permanent record through written request to the training directors. Requested documentation will be provided within two weeks of a written request.

## **NON-DISCRIMINATION POLICIES**

The program follows strict non-discrimination policies and operating conditions and avoids any actions that would restrict program access or completion on grounds that are irrelevant to success

in graduate training or the profession. More specifically, the program adheres to our Diversity Policy and the UT Health San Antonio's Nondiscrimination Policy and Complaint Procedures (HOP 4.2.1), which are outlined below.

### CLINICAL PSYCHOLOGY INTERNSHIP DIVERSITY POLICY

The enrichment of our educational program through diversity embodies more than attracting and retaining faculty, staff and interns of differing ethnicity and race. Diversity includes culture, country of origin, sexual orientation, age, disability, educational setting, geographic location and language.

**Goal:** In order to optimize the richness of diversity, every individual in the program at every level is accountable. Our goal is to provide the framework for developing an institutional culture that embraces diversity, encourages respect of all individuals and fosters an appreciation of individual differences.

**Recruitment and Retention:** Recruitment and retention of diverse staff and interns is conducted within "The Search Guidelines to Enhance Diversity" of the Texas Higher Education Coordinating Board. The Director of the equal Employment Opportunity and Affirmation Action Office for the University is a faculty member in the Department of Psychiatry and Behavioral Sciences and a member of the Psychology Training Committee.

**Program Implementation:** We encourage our faculty and staff to provide a thoughtful, coherent, integrated program in order to offer our interns relevant knowledge and experience to enable them to function in any setting in which they may find themselves. We take positive steps to ensure exposure to cultural and individual diversity as it relates to the practice of psychology within the context of the entire internship year.

Our program evaluates the contribution of cultural and individual diversity in the following areas: research, assessment, psychological intervention, consultation, professionalism, individual and cultural diversity, ethical and legal standards, supervision, and communication/interpersonal skills.

**Research:** Interns consider cultural and diversity factors when consuming or producing research and when considering the empirical basis for treatment and assessments.

**Assessment Skills:** The assessment procedures chosen should provide data that makes it possible to answer the referral questions that are appropriate for the client/patient (gender, ethnic background, etc.). Interns should be able to apply knowledge of psychopathology and client strengths to the assessment process with sensitivity to its content (including familial, social, and cultural factors). Interpretations and conclusions should take into account an individual's unique characteristics (gender, ethnic background, etc.) as well as the external situation.

**Psychological Intervention:** Interns should be able to identify and implement the most suitable psychological interventions for clients based upon current literature, assessment findings, diversity characteristics, contextual variables, and specific to service delivery goals.

**Consultation:** Interns should be able to consider relevant cultural factors during the consultation process.

**Professionalism:** Interns should interact with staff, supervisors, treatment teams, professionals, and peers in a culturally sensitive manner.

**Individual and Cultural Diversity:** Intern demonstrates sensitivity to the individual and cultural diversity (including, but is not limited to, age, race, disability, ethnicity, gender, gender identity, language, national origin, religion, culture, sexual orientation, and SES) of clients as well as an awareness of their own cultural and ethnic background during therapy.

**Ethical and Legal Standards:** Interns will take into account relevant individual and cultural factors when applying ethical and legal standards to include APA Ethical Principles, state law and when assessing and managing high risk client situations.

**Supervision:** Interns should consider relevant cultural factors when supervising psychology trainees or other health professionals, provided supervision vignettes, or while role-playing.

**Communication and Interpersonal Skills:** Interns will be able to develop and maintain effective relationships with a wide range of diverse individuals including colleagues, organizations, supervisors, supervisees, and clients while respecting individual and cultural differences.

Interns have the opportunity to function in diverse settings with a variety of faculty and staff. In addition, there is a series of up to 10 seminars provided by a diverse group of knowledgeable experts in the community.

The internship training program is designed to ensure that individual and cultural differences are taken into account in an integrated fashion and is ever evolving as a work in progress.

#### NONDISCRIMINATION POLICY & COMPLAINT PROCEDURE (UTHSCSA HOP 4.2.1)

**Policy:** It is the policy of UT Health San Antonio to provide an educational and working environment that provides equal opportunity to all members of the University community. In accordance with federal and state law, the University prohibits unlawful discrimination on the basis of race, color, religion, sex, national origin, age, disability, citizenship, genetic information, and veteran status. To the extent permitted by law, discrimination on the basis of sexual orientation is also prohibited pursuant to University policy.

**Scope of Policy:** This policy applies to all University administrators, faculty, staff, students/residents, fellows, post-docs, visitors and applicants for employment or admission. This policy is the principal prohibition of all forms of discrimination on campus, except as follows:

- The University's controlling policy and procedures relating to sexual harassment and sexual misconduct can be found in the Handbook of Operating Procedures (HOP), Section 4.2.2, and "Title IX Sexual Harassment/Sexual Misconduct Policy."
- Complaints concerning wages, hours of work, working conditions, performance evaluations, merit raises, job assignments, reprimands, and the interpretation or application of a rule, regulation or policy are governed by the HOP, Section 4.9.5, "Grievance Policy and Procedures".

## **Definitions:**

**DISCRIMINATION:** Including harassment, is defined as conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education on account of race, color, religion, sex, national origin, age, disability, citizenship, genetic information, veteran status, or sexual orientation.

**HARASSMENT:** As a form of discrimination, is defined as verbal or physical conduct that is directed at an individual or group because of race, color, religion, sex, national origin, age, disability, citizenship, genetic information, veteran status, or sexual orientation when such conduct is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of interfering with an individual's or group's academic or work performance; or, of creating a hostile academic or work environment. Constitutionally protected expression cannot be considered harassment under the policy.

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

**Informal Resolution Process:** This process may be used as a prelude to filing a formal complaint or as an alternative. It is not necessary that this option be used. Anyone who believes that he or she has been subject to discrimination may immediately file a formal complaint as described below under “Complaint Procedures”. Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature, and disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process.

1. Reporting: Faculty, residents, students, fellows and non-employee post-docs wishing to use the informal resolution process should contact the appropriate Associate Dean for Student Affairs or the Associate Dean for Graduate Medical Education or the Office of the Vice President for Academic, Faculty and Student Affairs. All other individuals wishing to utilize the informal resolution process should contact the Office of Human Resources.

Informal Assistance: The individual is provided assistance in attempting to resolve possible discrimination if the individual does not wish to file a formal complaint. Such assistance includes strategies for the individual to effectively inform the offending party that his or her behavior is offensive and should cease. Action should be taken by an appropriate University official to stop the offensive conduct, modify the situation in which the offensive conduct occurred, or begin mediation between the parties. However, the University may take more formal action to ensure an environment free of discrimination.

2. Timeframe: Informal resolutions will be completed within a reasonable amount of time from

receipt of a request for informal resolution.

3. Confidentiality and Documentation: The University will document informal resolutions for faculty, residents, students, fellows and non-employee post-docs by the appropriate Associate Dean for Student Affairs or the Associate Dean for Graduate Medical Education or the Office of the Vice President for Academic, Faculty and Student Affairs who will retain the official documentation. For all other informal resolutions, the Office of Human Resources will retain the official documentation. The University will endeavor to maintain confidentiality to the extent permitted by law. The University will attempt to find the right balance between the individual's desire for privacy and confidentiality with the responsibility of the University to provide an environment free of discrimination prohibited by law.

**Complaint Procedures:** Complaints that allege unlawful sexual harassment and sexual misconduct required under Title IX of the Education Amendments of 1972 are directed to follow the processes described in the HOP, Section 4.2.2 “Title IX Sexual Harassment/Sexual Misconduct Policy.”

Complaint procedures pursuant to this policy apply to complaints and grievances alleging unlawful discrimination on the basis of race, color, religion, sex, national origin, age, disability, citizenship, genetic information, and veteran status. As used herein, “complaint” is synonymous with “grievance.”

### Reporting

1. UT Health San Antonio encourages any person who believes that he or she has been subjected to discrimination to immediately report the incident to his or her appropriate supervisor, to the appropriate supervisor of the accused faculty member or employee, to the Office of Human Resources, or when faculty, residents, students, fellows and non-employee post-docs are the accused individuals, to the appropriate Associate Dean for Student Affairs or the Associate Dean for Graduate Medical Education or the Office of the Vice President for Academic, Faculty and Student Affairs. The complainant will be advised of the procedures for filing a formal complaint of discrimination. When a supervisor or Associate Dean of Students or Associate Dean for Graduate Medical Education receives a complaint, he or she will immediately notify the Office of the Vice President for Academic, Faculty and Student Affairs, and/or the Office of Human Resources, as appropriate.

2. Complaints should be filed as soon as possible after the conduct giving rise to the complaint, but no later than thirty (30) working days after the event occurred. In the case of a currently enrolled student, if the last day for filing a complaint falls prior to the end of the academic semester in which the alleged violation occurred, then the complaint may be filed within thirty (30) working days after the end of that semester.

3. In order to initiate the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and, any documents or information that is relevant to the complaint. While an investigation may begin on the basis of an oral complaint,

the complainant is strongly encouraged to file a written complaint.

Complaint Investigation: The Associate Dean for Student Affairs or Associate Dean for Graduate Medical Education and/or the Office of the Vice President for Academic, Faculty and Student Affairs, as appropriate, is responsible for:

1. Investigating formal complaints for faculty, residents, students, fellows and non-employee post-docs, while the Office of Human Resources is responsible for all other non-faculty/non-student complaints. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and seek to obtain verification of the complaint from the complainant.
2. Within ten (10) working days of receipt of a complaint, the Associate Dean for Student Affairs or the Associate Dean for Graduate Medical Education or the Office of the Vice President for Academic, Faculty and Student Affairs, and/or the Office of Human Resources as appropriate, will authorize an investigation of the complaint.
3. As part of the investigation process, the accused individual shall be provided with a copy of the allegations and be given the opportunity to respond verbally and/or in writing within a reasonable time frame.
4. The complainant and the accused individual may present any document or information that is believed to be relevant to the complaint.
5. Any persons thought to have information relevant to the complaint shall be interviewed and such interviews shall be appropriately documented.
6. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. In investigations exceeding sixty (60) days, a justification for the delay shall be presented to and reviewed by the Office of the Vice President for Academic, Faculty and Student Affairs for faculty, students, residents and non-employee post-docs, or the Vice President for the Office of Human Resources for all non-faculty/non-student employees. The complainant, accused individual, and supervisor will be provided an update on the progress of the investigation after the review.
7. Upon completion of the investigation, a written report will be issued. The report shall include: a recommendation of whether a violation of the policy occurred, an analysis of the facts discovered during the investigation, any relevant evidence and recommended disciplinary action if a violation of the policy occurred.
8. A copy of the report will be sent to the appropriate administrative official. Written notification of the findings of the investigation and outcome will be sent to the complainant and the respondent by the appropriate administrative official. The complainant and the respondent have seven (7) working days from the date of the notification letter to submit comments regarding the investigation to the administrative official. However, if a complaint is filed against a student, then the complainant and respondent may not receive or comment on the notification letter in accordance with the Family Education Rights and Privacy Act's restrictions on disclosure of educational records.

9. Within thirty (30) working days of receiving any comments submitted by the complainant or respondent, the appropriate administrative official will take one of the following actions:
- a. request further investigation into the complaint;
  - b. dismisses the complaint if the results of the completed investigation are inconclusive or there is insufficient reasonable, credible evidence to support the allegation(s); or,
  - c. find that this policy was violated. A decision that this policy was violated shall be made upon the record provided by the investigator and any comments submitted by the complainant or respondent; and, shall be based on the totality of circumstances surrounding the conduct of complained of, including but not limited to; the context of that conduct, its severity, frequency, whether it was physically threatening, humiliating, or was simply offensive in nature. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual.
10. If the appropriate administrative official determines that this policy was violated, he or she will take disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions can include, but are not limited to verbal reprimands, written reprimands, and the imposition of conditions, reassignment, suspension, and dismissal.
11. The complainant and the respondent shall be informed in writing of the administrative official's decision. However, if a complaint is filed against a student, then the determination letter sent to the complainant will be written in compliance with the Family Education Rights and Privacy Act.
12. Implementation of disciplinary action against faculty and employees will be handled in accordance with the University's policy and procedures for discipline and dismissal of faculty and employees. The Associate Dean for Student Affairs or the Associate Dean for Graduate Medical Education will impose disciplinary action, if any, against a student, resident or fellow in accordance with the University's appropriate disciplinary procedures.

### **Provisions Applicable to All Complaints**

Assistance: During the complaint process, a complainant or respondent may be assisted by a person of his or her choice; however, the assistant may not examine witnesses or otherwise actively participate in a meeting or interview.

Retaliation: An administrator, faculty member, student, resident, fellow, post-doc, or employee who retaliates in any way against an individual who has brought a complaint pursuant to this policy or an individual who has participated in an investigation of such a complaint is subject to disciplinary action, including dismissal.

False Complaints: Any person who knowingly and intentionally files a false complaint under this policy or any person who knowingly and intentionally makes false statements within the course of the investigation is subject to disciplinary action up to and including dismissal from the University.



**Confidentiality and Documentation:** The University shall document complaints and their resolution for faculty, residents, students and non- employee post-docs by the appropriate Associate Dean for Student Affairs or the Associate Dean for Graduate Medical Education or the Office of the Vice President for Academic, Faculty and Student Affairs. The Associate Deans will forward documentation of resolutions to the Office of the Vice President for Academic, Faculty and Student Affairs at the conclusion of the process for which they are responsible to conduct. The Office of the Vice President for Academic, Faculty and Student Affairs will retain the official documentation. For all other informal resolutions, the Office of Human Resources will retain the documentation. To the extent permitted by law, complaints and information received during the investigation will remain confidential. Relevant information will be provided only to those persons who need to know in order to achieve a timely resolution of the complaint.

**Dissemination of Policy:** The policy will be made available to all faculty, employees, students, residents, fellows, and post-docs. Periodic notices sent to faculty, employees, students, residents, fellows, and post-docs about the University's nondiscrimination policy will include information about the complaint procedure and will refer individuals to designated offices for additional information.

## **PROFESSIONAL WORK RELATIONSHIPS**

**PRINCIPLE:** Interns will be treated with courtesy and respect. Interactions among trainees, supervisors, and staff will be collegial and conducted in a manner reflecting the highest standards of the profession of psychology.

**MECHANISMS:** Interns will be provided a copy of “Ethical Principles of Psychologists and Code of Conduct” (2016, with the 2016 Amendment) which describes expectations regarding professional work relationships.

Interns will be provided with written policies and procedures regarding program requirements. Interns will receive UT Health San Antonio, Handbook of Operating Procedures Chapter 4, Policies 4.9.3 (Performance, Discipline, and Dismissal), 4.9.4 (Policies and Procedures for Discipline and Dismissal of Employees), and 4.9.5 (Grievance Policy and Procedures).

Interns will be provided written policies and procedures regarding equal employment opportunity (Chapter 4, Section 4.2.1), sexual harassment within the professional workplace (Chapter 4, Section 4.2.2), and Request for Accommodations under the ADA (Chapter 4, Section 4.2.3).

Interns will be provided guidance and support to encourage successful completion of the training program. Interns will evaluate faculty, regarding their perception of the quality of faculty guidance and support. Faculty will receive reports of evaluations.

Interns will be given performance feedback, quarterly, in writing regarding the extent to which they are meeting performance expectations with specific recommendations for remediating deficiencies and enhancing professional growth.

Interns will be provided conflict resolution procedures through which grievances can be heard. Grievances regarding sexual harassment or other equity matters are handled through the Office of Equal Employment Opportunity/Affirmative Action. Grievances regarding training issues are handled informally and formally through the following procedure: 1) Intern is encouraged to discuss issues with the faculty member and work towards a personal solution or can inform his/her mentor, who initiates informal discussion with individual faculty to work toward solution. 2) If issues continue, intern and mentor inform Psychology Internship Training Director of lack of success in working out informal solution to grievance. Psychology Training Director initiates informal discussion with faculty and works toward solution. 3) If issues continue, Psychology Training Director informs Psychiatry Residency Training Director, who serves as the informal Internship Ombudsman, of lack of success in working out informal solution to grievance. 4) Psychiatry Residency Training Director continues informal process with individual faculty and works toward solution. 5) If issues continue, Psychiatry Residency Training Director informs Psychiatry Department Chairman of grievance and inability of the informal process of redress. 6) Department Chair follows Institutional policies regarding formal handling of employee grievance as described in the Handbook of Operating Procedure.

## **LEAVE POLICY**

Each intern will have 12 days of vacation leave, 3 days of personal leave, up to 12 days sick leave, and up to 5 days of administrative leave. **Vacation is to be split between all rotations.** All vacations must be approved by the clinical site, mentor, and the Training Directors ***no later than 30 days in advance.*** Leave requests need to be submitted *directly* to Ms. Sandra Collazo (do not place in Dr. McGeary's box). Completed (i.e., signed by all respective supervisors) leave forms must be received **30 days** prior to leave. If not received in time, leave will NOT be approved (unless there are extenuating circumstances, e.g. death of a loved one).

Sick leave can only be used for medical appointments, medical procedures, or illness of the intern or his/her dependent. Per the institutional Handbook of Operating Procedures (HOP), any intern who takes **3 or more consecutive days of sick leave** will be asked to provide medical documentation with his/her leave form. Similarly, if a pattern of absences emerges (i.e., always sick on Tuesday or Friday) with sick leave, then interns will be asked to provide medical documentation. Please do not schedule medical appointments during the Tuesday morning seminars. Interns need to email their respective site supervisors in addition to Sandy Collazo and Drs. McGeary and Blount as early as possible when an intern will not be attending work due to illness. When an intern is sick on a Tuesday, the intern is responsible for contacting the Advance Clinic to reschedule patients. Sick leave forms must be submitted (signed by either Dr. McGeary or Dr. Blount and the site supervisor) directly to Sandra Collazo. Interns who fail to submit sick leave will be counseled on their professionalism. For continued problems with leave, a remediation plan may be initiated.

Successful completion of an APA-accredited internship requires a minimum of 2000 hours per year. Consequently, interns are expected to participate actively in their training activities. Exceeding the leave parameters established may result in extending your internship year past June 30<sup>th</sup> to ensure that the requirements for internship are met. Interns will not receive financial compensation or benefits past June 30<sup>th</sup>.

## **USE OF VACATION DAYS FOR PSYCHOLOGY INTERNS**

As stated in the University of Texas Health San Antonio HOP, an employee may not take vacation leave until they have been continuously employed with the State of Texas for six months, although vacation hours will be accrued during that period. Continuous employment means that the employee is paid a regular state salary for the six-month period. However, since interns are only employed at UT Health San Antonio for one-year, they are able to take leave prior to being employed for six-months. It should be noted that if an intern takes vacation within the first six months of employment and leaves employment before the completion of the internship, reimbursement for the vacation time taken will be required prior to the termination.

## **HOLIDAY, WEATHER AND COMPENSATORY POLICY**

Holidays- All UT Health San Antonio Holidays are to be observed. If the intern works at a Clinical Site on a UT Health San Antonio Holiday, then Administrative Time will be credited per hour to the intern only with prior written approval from the Internship Directors. If a Clinical Site observes a holiday during a non-UT Health San Antonio Holiday, then the intern must either come to the UT Health San Antonio to work or take a day of vacation leave.

Inclement Weather: If a work day is cancelled at UT Health San Antonio due to inclement weather, then time spent at a clinical site may be credited to the intern per hour as Administrative Leave (with permission from the Internship Director), UT Health San Antonio Interns are not eligible for Compensatory time, and Compensatory or Administrative time will never be given for training-related activities (i.e., working 10 hours instead of 8). Typical work weeks are expected to range from 45-55 hours.

## **EXTRA-SYSTEM (MOONLIGHTING) WORK POLICY**

The psychology internship program at The University of Texas Health San Antonio involves comprehensive and demanding training. This training is carried out within a 45-55 hour per week format in which interns explore a variety of rigorous training/service experiences. Because we believe that training should be the primary focus of the year, it has been the policy of the program to discourage extra-system work (moonlighting).

Extra-system work may be permitted only under the following circumstances:

1. Psychology internship activities must all be satisfactorily completed. Extra-system work must not take priority or interfere in any manner with the program's training/service experiences. An intern who has knowledge deficiencies in evaluation or treatment will be urged to take courses, read under supervision, et al; such activities would take precedence over moonlighting.
2. Extra-system work must be conducted within the rules of the State Board of Examiners of Psychologists and within the framework of the ethics of the profession of psychology.
3. The Director of the Psychology Internship, in consultation with the Training Committee and the mentor, must give written permission for any extra-system work.
4. Extra-system work will be permitted only after the successful completion of the first quarter (three months).
5. These policies do not apply to work outside of the field of psychology.

## UT HEALTH SAN ANTONIO HANDBOOK OF OPERATING PROCEDURES

As employees of the University of Texas Health San Antonio, interns are expected to follow the University's Policies and Procedures as outlined by the Handbook of Operating Procedures in addition to the Internship's Policies and Procedures. Key HOP policies are included below; however, an electronic copy of the entire HOP is located at [uthscsa.edu/hop2000/](http://uthscsa.edu/hop2000/). Information about the Institutional Compliance Program is available at <https://uthscsa.edu/compliance/>, and the Compliance Office can be reached at 210-567-2014.

### REQUEST FOR ACCOMMODATIONS UNDER THE ADA ADA AMENDMENTS ACTS OF 2008 (HOP 4.2.3)

It is the policy of UT Health San Antonio to comply with the provisions of the Americans with Disabilities Act (ADA) and the ADA Amendments Act of 2008 (ADAAA). The ADA prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, educational environments, and governmental activities. Title I of the ADA requires an employer to provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for employment or applicants for admissions as students, residents to one of the UT Health San Antonio schools.

#### **Definitions:**

**DISABILITY:** A mental or physical impairment that substantially limits at least one or more major life activities of an individual, a record of such an impairment, or being regarded as having such an impairment as described in the ADAAA listing of major life activities. The term does not include:

1. A current condition of addiction to the use of alcohol, a drug, an illegal substance, or a federally controlled substance; or
2. A currently communicable disease or infection as defined in Section 81.003, Health and Safety Code, or required to be reported under Section 81.041, Health and Safety Code, that constitutes a direct threat to the health or safety of other persons or that makes the affected unable to perform the duties of the person's employment.

**QUALIFIED INDIVIDUAL WITH A DISABILITY:** A person with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position or educational program of study; such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

**REASONABLE ACCOMMODATION:** Generally speaking, a change in the work environment or work procedure that enables an individual with a disability to enjoy equal employment opportunities. Examples of possible reasonable accommodations include making existing facilities accessible, job restructuring, modified schedules, and acquiring or modifying equipment.

**STAFF:** All exempt and non-exempt Classified and Administrative & Professional employees.

**UNDUE HARDSHIP:** An action that is excessively costly, extensive, substantial, or disruptive or that would fundamentally alter the nature or operation of the business.

In determining undue hardship, factors to be considered include the nature and cost of the accommodation in relation to the size, the financial resources, the nature and structure of the employer's operation, as well as the impact of the accommodation on the specific facility providing the accommodation.

**Pregnancy and Religious Accommodations:** Pregnancy itself is not considered a disability under the ADA. However, employees, students and residents who suffer from pregnancy related disabilities, such as preeclampsia or diabetes, are entitled to reasonable accommodations from the employer and/or school and/or program of study and educational environment.

Examples of pregnancy accommodations in the workplace include a reduced work schedule, restrictions on lifting, and providing ergonomic office furniture, time and place for lactation activities.

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on religion. This includes refusing to accommodate an employees' sincerely held religious beliefs or practices unless the accommodation would impose an undue hardship. A religious practice may be sincerely held even if newly adopted, not observed consistently, or different from common tenets of an individual's religion.

Examples of religious accommodations in the workplace and/or educational environment include exceptions to the dress code, schedule changes, and additional breaks during the workday and/or school day.

**Process:** The staff, student, fellow or resident requesting accommodation submits the appropriate request for accommodation under the American with Disabilities Act (ADA).

- Staff submits Request for Accommodation Under the Americans with Disabilities Act (ADA), form ADA-99 to the Office of Human Resources with a copy of the current job description (if appropriate).
- Faculty submits Request for Accommodation Under the Americans with Disabilities Act (ADA), form ADA-100 to the Executive Director, Academic, Faculty and Student Ombudsperson and ADA Compliance Office with a copy of the current job description (if appropriate).
- Students, fellows and residents submits Request for Accommodation Under the Americans with Disabilities Act (ADA), form ADA-100, to the Executive Director, Academic, Faculty, Student Ombudsperson and ADA Compliance Office with a copy of the current job description (if appropriate).

Reasonable accommodations will be decided by the department in concurrence with the Office of Human Resources for staff requests and the Executive Director, Faculty, Student Ombudsperson and ADA Compliance Office for all other requests. It may be determined that additional medical information is needed. If so, the individual will be provided with necessary forms/questionnaires for the health care provider to complete.

**Interactive Process:** A reasonable accommodation under the ADA and ADAAA is an ongoing process. At any point in time, the individual receiving the reasonable accommodation may request a reevaluation of their request from the Office of Human Resources or the Executive Director, Academic Faculty, Student Ombudsperson and ADA Compliance Office. At that point, the interactive process will be implemented in order to deal with any new requests and/or revisions to the initial requests.

**Confidentiality:** All medical-related information shall be kept confidential and maintained in the applicable office (Office of Human Resources or the Executive Director, Academic Faculty, Student Ombudsperson, and ADA Compliance Office) and will be maintained separately from other personnel or student, resident records. However, supervisors and managers and certain faculty in a school and/or program of study may be advised of information necessary to make the determinations they are required to make in connection with a request for an accommodation. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or if any specific procedures are needed in the case of fire or other evacuations. Government officials investigating compliance with the ADA and the ADAAA may also be provided relevant information as requested.

**Retention:** Form ADA-99, ADA-100, and attached documentation submitted to the Office of Human Resources and the Executive Director, Academic Faculty, Student Ombudsperson, and ADA Compliance Office will be maintained in a confidential manner in accordance with applicable federal and state mandated retention schedules.

## **SEXUAL MISCONDUCT POLICY (HOP 4.2.2)**

### **I. General Policy Statement**

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

B. UT Health San Antonio will promptly discipline any individuals or organizations within its control who violate this Policy. The University encourages you to promptly report violations of this Policy to the Title IX Director or Deputy Coordinators (collectively “Title IX Office”) or a Responsible Employee, as identified in Section XI below.

C. Free Speech. This Policy encourages and respects the right of free speech guaranteed by the First Amendment of the Constitution and the principles of academic freedom. Constitutionally protected expression cannot be considered harassment under this policy. Each faculty member is entitled to full freedom in the classroom in discussing the subject which they teach. The right to free speech and principles of academic freedom are not absolute, however. The offensive conduct underlying some incidents might be protected speech, but it may still be in contradiction to the University’s commitment to academic freedom, integrity, honesty, dignity, respect and honorable conduct (see generally Regents Rule 10901, Statement of U.T. System Values and Expectations). In these instances, constitutional rights will continue to be protected, but the University will also

exercise its right to speak and engage in educational dialogue with those engaged in these types of behaviors. Further, some offensive conduct, even though it contains elements of speech, may rise to the level of the type of conduct that creates a sexually hostile environment and, thus, violates this policy.

## **II. Scope Applicability**

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

## **III. Procedure Filing a Complaint and Reporting Violations**

A. Title IX Director and Deputy Coordinators. The contact information for the Title IX Director and Deputy Coordinators are:

1. Title IX Director (Office of Academic Faculty and Student Affairs):  
TitleIX@uthscsa.edu, 210-450-8131

2. Deputy Title IX Coordinator (Office of Academic Faculty and Student Affairs):  
TitleIX@uthscsa.edu, 210-450-8131

3. (Office of Human Resources): hrpartners@uthscsa.edu, 210-567-2600

B. All Members of the UT Health San Antonio Community, Third Parties and anonymous Complainants are strongly encouraged to immediately report any incidents of sexual misconduct and other inappropriate sexual conduct to the Title IX Office.

1. Anonymity. You may file an anonymous complaint by telephone, or electronically [<https://secure.ethicspoint.com/domain/media/en/gui/67623/index.html>] with the Title IX Office. Your decision to remain anonymous, however, may greatly limit the University's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating the Policy.

2. Confidentiality. Most University employees are required to report and respond to complaints of sexual misconduct and may be unable to honor a request for confidentiality. Complainants who want to discuss a complaint in strict confidence may use the resources outlined below in Section III.F or any confidential employee as defined in Section XI.

3. Timeliness of Complaint. You should report sexual misconduct as soon as you become aware of such conduct.

C. Responsible Employees. You may also report incidents to Responsible Employees, as defined in Section XI below.

D. Reporting to Law Enforcement. Complaints of sexual misconduct may also be made to The University of Texas System Police, UT Health San Antonio (University Police) at 210-567-2800

(non-emergency) or 210-567-8911 (emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Office can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department. If a complaint of sexual misconduct is reported to the University Police, the Department shall advise the complainant of his or her right to file a complaint under this Policy. To the extent allowed by law and University policy, the University Police shall also notify the Title IX Director of the complaint and provide the Title IX Director or the individual investigating the complaint access to any related University law enforcement records, so long as doing so does not compromise any criminal investigation.

E. Reporting to Outside Entities. You may also contact the following external agencies:

1. For students:

a. Office of Civil Rights

U.S. Department of Education

1999 Bryan Street, Suite 1620

Dallas, TX 75201-6810

Phone: (214) 661-9600

Fax: (214) 661-9587

b. Office for Civil Rights

U.S. Department of Health and Human Services

1301 Young Street, Suite 1169

Dallas, TX 75202

Phone: (800) 537-7697

Fax: (214) 767-0432

2. For employees:

a. U.S. Equal Employment Opportunity Commission

Dallas District Office

207 S. Houston Street, 3rd Floor

Dallas, TX 75202

Phone: (800) 669-4000

Fax: (214) 253-2720

b. Texas Workforce Commission

Civil Rights Division 101 E. 15th Street

Room 144-T

Austin, TX 78778-0001

512-463-2642

F. Confidential Support and Resources. Students may discuss an incident with Confidential Employees (defined in Section XI below) or an off-campus resource (i.e. rape crisis center, doctor, psychologist, etc.) without concern that the person's identity will be reported to the Title IX Office. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of their choice, or an off-campus rape crisis resource without concern that the person's identity will be reported to the Title IX Office. The UT Health San Antonio and community resources that provide confidential services are:

1. Campus Confidential Resources:



a. UT Health Student Counseling Center  
 (Students - Confidential)  
 Website: <https://students.uthscsa.edu/counseling/>  
 Office Phone and 24-Hour Crisis Line: 210-567-2648

b. Student Ombudsperson Services  
 (Students – Confidential)  
 Website:  
<https://students.uthscsa.edu/studentlife/2016/11/student-ombudsperson/>  
 Dr. Bonnie Blankmeyer: [Blankmeyer@uthscsa.edu](mailto:Blankmeyer@uthscsa.edu)  
 Phone: 210-567-2691  
 Mrs. Le’Keisha Johnson: [JohnsonLD@uthscsa.edu](mailto:JohnsonLD@uthscsa.edu)  
 Phone: 210-567-2651

c. UT Employee Assistance Program (EAP)  
 (Staff, Employees and Faculty - Confidential)  
 Website: <https://www.uth.edu/uteap/>  
 Phone: 1-800-346-3549 or 713-500-3327

d. Wellness 360  
 (Students, Employees and Faculty - Confidential)  
<https://wellness360.uthealthsa.org/>  
 Phone: 210-567-2788

## 2. Community Confidential Resources

a. Rape Crisis Center  
 Website: <http://rapecrisis.com/>  
 Hotline 24 Hour Support: 210-349-7273  
 Emergency: Call 911

b. Bexar County Family Justice Center  
 Website: <https://www.bcfjc.org/>  
 Phone: 210-631-0100  
 Emergency: Call 911

G. Immunity. In an effort to encourage reporting of sexual misconduct, UT Health San Antonio will grant immunity from student and/or employee disciplinary action to a person who acts in good faith in reporting a complaint, participating in an investigation, or participating in a disciplinary process. This immunity does not extend to the person’s own violations of this Policy.

## IV. Parties’ Rights Regarding Confidentiality

A. UT Health San Antonio has great respect for the privacy of the parties in a complaint. Under federal and state law, however, Responsible Employees (defined in Section XI below) who receive a report of sexual misconduct must share that information with the Title IX Office. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant’s request for confidentiality.

B. In making determinations regarding requests for confidentiality, requests to not investigate, and/or the disclosure of identifying information to the respondent, the Title IX Director must

deliberately weigh the rights, interests, and safety of the complainant, the respondent and the campus community. Factors the University must consider when determining whether to investigate an alleged incident of sexual misconduct include, but are not limited to:

1. The seriousness of the alleged incident;
2. Whether the University has received other reports of alleged sexual misconduct by the alleged respondent;
3. Whether the alleged incident poses a risk or harm to others; and
4. Any other factors the University determines relevant.

C. If the complainant requests the University not to investigate, the Title IX Director must inform the complainant of the decision whether or not to investigate.

D. In the course of the investigation, UT Health San Antonio may share information only as necessary with people who need to know in compliance with the law, which may include but is not limited to the investigators, witnesses, and the respondent. UT Health San Antonio will take all reasonable steps to ensure there is no retaliation against the parties or any other participants in the investigation. UT Health San Antonio will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971 and other confidentiality laws as they apply to Title IX investigations. To the extent possible, UT Health San Antonio will also protect the privacy of all parties to a report of sexual misconduct.

## **V. Resources and Assistance**

### **A. Immediate Assistance.**

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

#### **a. Methodist Specialty and Transplant Hospital**

Emergency Room Sexual Assault Nurse Examiner (SANE) on duty at all times  
8026 Floyd Curl Drive, San Antonio, Texas

<https://sahealth.com/locations/methodist-specialty-and-transplant-hospital/>

For more information about the SAFE, see

[https://www.texasattorneygeneral.gov/files/cvs/sexual\\_assault\\_examination.pdf](https://www.texasattorneygeneral.gov/files/cvs/sexual_assault_examination.pdf).

The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

2. Police Assistance. If you experienced or witnessed sexual misconduct, the University encourages you to make a report to the police. The police may, in turn, share your report with the Title IX Office. A police department's geographic jurisdiction depends on where the sexual misconduct occurred. Thus, if the incident occurred on the University campus, you may file a report with the UT Health Police Department by calling 210-567-2800 or in person at UT Police headquarters at 7703 Floyd Curl Drive, San Antonio, TX 78229, even if time has passed since the assault occurred. UT Police can also assist with filing any protective orders. Reporting an assault to law enforcement does not mean the case will automatically go to criminal trial or to a University disciplinary hearing. If the University police are called, a uniformed officer will be sent to the scene to take a detailed statement. A police department counselor may also provide you with a ride to the hospital. You may also file a report with the University police even if the assailant was not a University student or employee. If the incident occurred in the City of San Antonio, but off campus, you may also file a report with the San Antonio Police Department, even if time has passed since the assault occurred. If a report is made to the police, a uniformed officer will usually be dispatched to the location to take a written report.

a. UT Health San Antonio Police Department

Website: <https://www.uthscsa.edu/police/clery/victim-assistance-resources>

Non- Emergency: 210-567-2800 – option 3

Emergency: Call 911 or 210-567-8911

3. Counseling and Other Services. If you experience sexual misconduct, you are strongly encouraged to seek counseling or medical and psychological care even if you do not plan to request a SAFE or report the assault to the police. You 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. Similarly, other individuals impacted or affected by a sexual misconduct complaint are encouraged to seek counseling or psychological care. You may receive medical care at the UT Health San Antonio Wellness 360, at a local emergency room, or by a private physician. You may also be provided with psychological support by the Student Counseling Center (students), Employee Assistance Program (employees and faculty), or a care provider of your choosing.

a. Wellness 360

(Students, Employees and Faculty – Confidential)

<https://wellness360.uthealthsa.org/>

Phone: 210-567-2788

b. Students desiring counseling should contact:

UT Health Student Counseling Center

(Students - Confidential)

Website: <https://students.uthscsa.edu/counseling/>

Office Phone and 24-Hour Crisis Line: 210-567-2648

c. Faculty and staff should contact:

UT Employee Assistance Program (EAP)

(Staff, Employees and Faculty - Confidential)

Website: <https://www.uth.edu/uteap/>

Phone: 1-800-346-3549 or 713-500-3327

## B. Interim Measures.

1. The University will offer reasonably available individualized services to the parties involved in an alleged incident of sexual misconduct, when applicable.

2. Interim measures may include but are not limited to reassignment, suspension, counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, withdrawal from or retake of a class without penalty, campus escort services, restrictions on contact between the parties, change in work or housing locations, leaves of absences, increased security and monitoring of certain areas of campus or other similar accommodations tailored to the individualized needs of the parties. The University's ability to implement interim measures may be affected if the Complainant requests that the University not disclose the Complainant's identity to relevant University personnel involved in implementing interim measures.

## VI. The Investigation Process – What You Need to Know

### A. Key Officials in an Investigation

1. Title IX Director. The Title IX Director is the senior UT Health San Antonio administrator who oversees the University's compliance with Title IX. The Title IX Director is responsible for overseeing the administrative response to reports of sexual misconduct and is available to discuss options, provide support, explain UT Health San Antonio policies and procedures, and provide education on relevant issues. The Title IX Director may designate one or more Deputy Title IX Coordinators. Any member of the UT Health San Antonio community may contact the Title IX Director with questions.

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

B. Notification of UT Health San Antonio Offices Offering Assistance. After receiving a complaint, the Title IX Director or Deputy Coordinator will inform the parties of available resources and assistance. While taking into consideration requested confidentiality, the Student Ombudspersons for students, and the Faculty Ombudsperson for faculty, and the Human Resource Partners for staff may serve as a liaison between the parties and the Title IX Office during the investigation.

C. Informal Resolution of Certain Sexual Harassment Complaints. Both parties may voluntarily agree to use this option instead of or before the formal resolution process but are not required to do so. Also, this option is not permitted for sexual violence cases. Anyone who believes that he or she has been subjected to sexual misconduct may immediately file a formal complaint as described in Section VI.D of this Policy. Anyone interested in the informal resolution process, should contact the Title IX Director. Before beginning the informal resolution process, the Title IX Director must provide both parties full disclosure of the allegations and their options for formal resolution. At any time during the informal resolution process, the complainant may elect to discontinue the informal resolution process and file a formal complaint.

1. Informal Assistance. If informal assistance is appropriate, the individual will be provided assistance in informally resolving the alleged sexual misconduct. Assistance

may include providing the complainant with strategies for communicating with the offending party that his or her behavior is unwelcomed and should cease, directing a UT Health San Antonio official to inform the offending party to stop the unwelcomed conduct, or initiating mediation. However, UT Health San Antonio may take more formal action, including disciplinary action, to ensure an environment free of sexual harassment or sexual misconduct.

2. Timeframe. Informal resolutions of a complaint will be concluded as soon as possible.

3. Documentation. The University will document and record informal resolutions. The Title IX Director will retain the documentation.

#### D. Formal Complaint and Investigation.

1. Formal Complaint. To begin the investigation process, the complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the complaint, including the following:

- a. complainant's name and contact information;
- b. name of the person directly responsible for the alleged violation;
- c. detailed description of the conduct or event that is the basis of the alleged violation;
- d. date(s) and location(s) of the alleged occurrence(s);
- e. names of any witnesses to the alleged occurrence(s); the resolution sought; and
- f. any documents or information that is relevant to the complaint.

UT Health San Antonio may initiate an investigation regardless of the manner in which a complaint is received or whether a complaint is received at all. However, the complainant is strongly encouraged to file a written complaint. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and ask the complainant to verify that statement. The UT Health San Antonio office receiving the complaint should refer the complaint to the Title IX Director.

#### 2. Investigation.

- a. After an investigator is assigned, the respondent will be provided notice of the complaint and be allowed a reasonable time to respond in writing.
- b. The parties may present any information and evidence that may be relevant to the complaint, including the names of any witnesses who may provide relevant information.
- c. The investigators will interview relevant and available witnesses. Neither the complainant nor the respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- d. The investigation of a complaint will be concluded as soon as possible after receipt of the complaint. The parties should be provided updates on the progress of the investigation.
- e. After the investigation is complete, a written report will be issued to the Title IX Director and the appropriate administrator. The report shall include factual findings and a preliminary conclusion regarding each allegation of whether a policy violation occurred (based on a "preponderance of the evidence" standard).
- f. After the written report is completed, both parties will be allowed to inspect the

report or, at the Institution's discretion, be provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971. Each party will have 7 business days to submit written comments regarding the investigation to the Title IX Director.

g. Within 7 business days after the deadline for receipt of comments from the parties, the Title IX Director or his or her designee will:

- i. request further investigation into the complaint;
- ii. dismiss the complaint if it is determined that no violation of policy or inappropriate conduct occurred; or
- iii. find that the Policy was violated.

h. If it is determined that the Policy was violated, the matter will be referred for disciplinary action.

i. The parties shall be informed concurrently in writing of the decision by the Title IX Director.

j. If disciplinary action or sanction(s) is warranted, it will be imposed in accordance with the applicable policies and procedures.

i. Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971.

#### E. Standard of Proof

1. All investigations will use the preponderance of the evidence standard, as defined in Section XI, Definitions and Examples, to determine violations of this Policy.

#### F. Timelines

1. Best efforts will be made to complete the complaint process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

2. At the request of law enforcement, UT Health San Antonio may defer its fact-gathering until after the initial stages of a criminal investigation. In such an instance, UT Health San Antonio will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time, the University will move forward.

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

#### G. Due Process and Privacy Rights

1. UT Health San Antonio will strive to ensure that the steps it takes to provide due process to the respondent will not restrict or delay the protections provided by Title IX to the complainant.

2. The Family Educational Rights and Privacy Act (FERPA) does not override federally protected due process rights of a respondent.

#### H. Remedies

1. In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, UT Health San Antonio will take appropriate action(s), including but not limited to those below to resolve complaints of sexual misconduct, prevent any recurrence and,

as appropriate, remedy any effects:

- a. Imposing sanctions against the respondent, including attending training, suspension, termination or expulsion;
- b. Ensuring the parties do not share classes, working environments or extracurricular activities;
- c. Making modifications to the on campus living arrangements of the parties;
- d. Providing comprehensive, services to the parties including medical, counseling and academic support services, such as tutoring;
- e. Providing the parties extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty;
- f. Determining whether sexual misconduct adversely affected the complainant's University standing;
- g. Designating an individual specifically trained in providing trauma-informed comprehensive services;
- h. Conducting a UT Health San Antonio climate check to assess the effectiveness of sexual misconduct prevention measures;
- i. Providing targeted training for a group of students including bystander intervention and sexual misconduct prevention programs; and,
- j. Issuing policy statements regarding the University's intolerance of sexual misconduct.

#### I. Sanctions and Discipline

1. Disciplinary action will be handled under the appropriate disciplinary policy depending on the status of the respondent.

a. For students:

Student Discipline Policy

b. For faculty:

Handbook of Operating Policies, Section 10.1.1, Overview of Policies

Handbook of Operating Policies, Section 10.1.2, Code of Ethics and Standards of Conduct

c. For staff:

Handbook of Operating Policies, Section 4.9.3, Progressive Disciplinary Action

Handbook of Operating Policies, Section 10.1.1, Overview of Policies

Handbook of Operating Policies, Section 10.1.2, Code of Ethics and Standards of Conduct

#### **VII. Provisions Applicable to the Investigation**

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

B. Time Limitations. Time limitations in these procedures may be modified by the Title IX Director or appropriate administrator on a written showing of good cause by the complainant, respondent, or UT Health San Antonio.

C. Concurrent Criminal or Civil Proceedings. UT Health San Antonio will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. UT Health San Antonio has an independent duty to investigate complaints of sexual misconduct. (Except as provided in Section IV.F).

D. Documentation. UT Health San Antonio shall document complaints and their resolution

and retain copies of all materials in accordance with state and federal records laws and UT Health San Antonio policy.

### **VIII. Dissemination of Policy and Educational Programs**

A. This Policy will be made available to all UT Health San Antonio administrators, faculty, staff, and students online at <http://students.uthscsa.edu/titleix/> and in UT Health San Antonio publications. Periodic notices will be sent to UT Health San Antonio administrators, faculty, staff and students about UT Health San Antonio's Sexual Misconduct Policy including but not limited to at the beginning of each fall and spring semester. The notice will include information about sexual misconduct, including the complaint procedure, and about UT Health San Antonio disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this Policy and with law enforcement and will refer individuals to designated offices or officials for additional information.

B. Ongoing Sexual Misconduct Training. UT Health San Antonio's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained UT Health San Antonio personnel. Preventive education and training programs will be provided to UT Health San Antonio administrators, faculty, staff, and students and will include information about primary prevention, risk reduction, and bystander intervention:

<http://students.uthscsa.edu/titleix/>

C. Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Directors, Deputy Coordinators, investigators, and those with authority over sexual misconduct hearings and appeals shall receive training annually about offenses, investigatory procedures, due process, and UT Health San Antonio policies related to sexual misconduct.

D. Annual Reporting and Notice. The University's Title IX General Policy Statement will be made available to all students, faculty, and employees online, in required publications and in specified departments.

### **IX. Additional Conduct Violations**

A. Retaliation. Any person who retaliates against the parties or any other participants in an investigation or disciplinary process relating to a complaint, or any person who under this Policy opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from UT Health San Antonio. If any participant in an investigation believes they have been subject to retaliation, they should immediately report the alleged retaliatory conduct to the Title IX Office. See in the Handbook of Operating Policies, Section 2.5.2, Protection from Retaliation for Reporting Suspected Wrongdoing.

B. False Complaints. Any person who knowingly and intentionally files a false complaint under this Policy is subject to disciplinary action up to and including dismissal or separation from UT Health San Antonio. A finding that a respondent is not responsible for the sexual misconduct alleged does not imply a report was false.

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



1. Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
2. Removing, destroying, or altering documentation relevant to the investigation; or
3. Providing false or misleading information to the investigator or encouraging others to do so.

D. Failure to Report for Responsible Employees. Under state law, if a Responsible Employee knowingly fails to report all information concerning an incident the employee reasonably believes constitutes stalking, dating violence, sexual assault, or sexual harassment committed by or against a student or employee at the time of the incident, the employee is subject to disciplinary action, including termination. For purposes of Failure to Report, the definition of sexual harassment is broader than the definition of sexual harassment under this Policy and is defined as: Unwelcome, sex-based verbal or physical conduct that:

1. in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
2. in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary institution.

E. No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint. The filing of a complaint under this Policy will not stop or delay any action unrelated to the complaint, including:

1. any evaluation or disciplinary action relating to a complainant who is not performing up to acceptable standards or who has violated UT Health San Antonio rules or policies;
2. any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or
3. any job-related functions of a UT Health San Antonio employee. Nothing in this section shall limit UT Health San Antonio's ability to take interim action.

## **X. Documentation**

A. UT Health San Antonio shall confidentially maintain information related to complaints under this Policy, as required by law.

## **XI. Definitions and Examples<sup>ii</sup>**

A. **COMPLAINANT:** – The student, employee or third party who presents as the victim of any prohibited conduct under this Policy, regardless of whether that person makes the report or seeks action under this Policy.

B. **COERCION;** – The use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including psychological or emotional pressure, physical or emotional threats, intimidation, manipulation, or blackmail that causes the person to engage in unwelcome sexual activity. A person's conduct or words are sufficient to constitute coercion if they eliminate a reasonable person's freedom of will

and ability to choose whether or not to engage in sexual activity. Examples of coercion include but are not limited to threatening to “out” someone based on sexual orientation, gender identity, or gender expression; threatening to harm oneself if the other party does not engage in the sexual activity; and threatening to expose someone’s prior sexual activity to another person.

**C. CONFIDENTIAL EMPLOYEES:** Confidential Employees include counselors in Counseling and Psychological Services, a health care provider in Health Services, or clergypersons. Additionally, employees who receive information regarding an incident of sexual misconduct under circumstances that render the employee’s communications confidential or privileged under other law (such as attorneys) are also considered “Confidential Employees.” Note: Under state law, Confidential Employees who receive information regarding incidents of sexual harassment, sexual assault, dating violence or stalking committed by or against a student or an employee of the University, are required to report the type of incident to the Title IX Director (or Deputy Coordinators). Confidential Employees may not include any information that would violate a student’s expectation of privacy. The Confidential Employee’s duty to report an incident under any other law also applies.

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

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

1. Consent is not effective if it results from:
  - a. the use of physical force,
  - b. a threat of physical force,
  - c. intimidation,
  - d. coercion,
  - e. incapacitation; or
  - f. any other factor that would eliminate an individual’s ability to exercise his or her own free will to choose whether or not to have sexual activity.
  
2. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity.
  
3. The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.<sup>iii</sup>

<sup>iii</sup>Texas Penal Code, Section 22.011(b) states that a sexual assault is without consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; (5) the other person has not consented, and the actor knows the other person is unaware that the sexual assault is occurring; (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person

believes that the actor has the ability to execute the threat.

**E. DATING VIOLENCE<sup>iv</sup>:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

1. The existence of such a relationship shall be determined by the victim with consideration of the following factors:
  - a. The length of the relationship;
  - b. The type of relationship; and
  - c. The frequency of interaction between the persons involved in the relationship
2. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

**F. DOMESTIC (FAMILY) VIOLENCE<sup>v</sup>:** 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 state of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

iv Dating Violence is defined by the Texas Family Code, Section 71.0021 as: (a) an act, other than a defensive measure to protect oneself, by an actor that: (1) is committed against a victim: (A) with whom the actor has or has had a dating relationship; or (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and (2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault. (b) For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of: (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship. (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b). Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

v. Family Violence is defined by the Texas Family Code Section 71.004 as: (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse, as that term is defined by Sections 261.001(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or (3) dating violence, as that term is defined by Section 71.0021. Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

**G. HOSTILE ENVIRONMENT:** exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from UT Health San Antonio's programs or activities or an employee's terms and conditions of employment.<sup>vi</sup> A hostile environment can be created by anyone involved in a UT Health San Antonio's program or activity (e.g., administrators, faculty members, employees, students, and UT Health San Antonio visitors).

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

undesirable or offensive.

2. To ultimately determine whether a hostile environment exists for an individual or individuals, UT Health San Antonio considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including:

- a. the type, frequency, and duration of the conduct;
- b. the identity and relationships of the persons involved;
- c. the number of individuals involved;
- d. the location of the conduct and the context in which it occurred; and
- e. the degree to which the conduct affected an individual's education or employment.

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

<sup>vi</sup> Depending on the facts of a particular case, the University may investigate claims of hostile work environment under this Policy, the University's gender discrimination policy, or both. See Department of Education, Office for Civil Rights, January 2001 Revised Sexual Harassment Guidance, page 2.

**H. INCAPACITATION:** Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they demonstrate that they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in a sexual interaction.

1. The University offers the following guidance on consent and assessing incapacitation:

- a. When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drug. Alcohol and other drugs impact each individual differently and determining whether an individual is incapacitated requires an individualized determination.

2. In evaluating consent in cases of alleged incapacitation, the University asks two questions:

- a. Did the person initiating sexual activity know that the other party was incapacitated? and if not,
- b. Should a sober, reasonable person in the same situation have known that the other party was incapacitated?

3. If the answer to either of these questions is "YES," consent was absent, and the conduct is likely a violation of this Policy.

4. One need not be a medical expert in assessing incapacitation. One should look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may show signs of incapacitation differently, some signs include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, incontinence or emotional

volatility. A person who is incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?” “Do you know how you got here?” “Do you know what is happening?” “Do you know whom you are with?”

5. An individual’s level of intoxication may change over a period of time based on a variety of subjective factors, including the amount of substance intake, speed of intake, body mass, and metabolism. It is especially important, therefore, that anyone engaging in sexual activity is aware of both their own and the other person’s level of intoxication and capacity to give consent.

6. The use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether consent is effectively sought and freely given. If there is any doubt as to the level or extent of one’s own or the other individual’s intoxication or incapacitation, the safest course of action is to forgo or cease any sexual contact.

7. Being impaired by alcohol or other drugs is no defense to any violation of this Policy.

I. **INTIMIDATION:** Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

J. **OTHER INAPPROPRIATE SEXUAL CONDUCT:** Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom. Depending on the facts of a complaint, the conduct may not violate this Policy but may violate other university policies including by not limited to standards of conduct or professionalism policies.

K. **PARTIES:** The term “parties” refers to the “complainant” and the “respondent” in a Title IX complaint.

L. **PREPONDERANCE OF THE EVIDENCE:** The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

M. **RESPONDENT:** The student, employee, or third party who has been accused of violating this policy.

N. **RESPONSIBLE EMPLOYEE:** A UT Health San Antonio employee who has the duty to report incidents of and information reasonably believed to be sexual misconduct to the Title IX Office. All employees are Responsible Employees except Confidential Employees. Responsible Employees include all administrators, faculty, staff, and graduate teaching assistants. Responsible Employees must report all known information concerning the incident to the Title IX Office and must include whether a complainant has expressed a desire for confidentiality in reporting the incident.

**O. RETALIATION:** Any adverse action threatened or taken against someone because the individual has filed, supported, provided information in connection with a complaint of sexual misconduct or engaged in other legally protected activities. Retaliation includes, but is not limited to, intimidation, threats or harassment against any complainant, witness or third party.

**P. SEXUAL ASSAULT<sup>vii</sup>:** An offense that meets the definition of rape, fondling, incest, or statutory rape:

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Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person's consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
  - 1. Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - 2. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - 3. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - 4. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

**Q. SEXUAL EXPLOITATION:** Conduct where an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; the intentional removal of a condom or other contraceptive barrier during sexual activity without the consent of a sexual partner, and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD) to another.

**R. SEXUAL HARASSMENT:** Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:

- 1. submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in UT Health San Antonio activities;
- 2. or such conduct is sufficiently severe or pervasive that it creates a hostile environment, as defined by this policy.
- 3. Sexual harassment is a form of sex discrimination that includes:
  - a. Sexual violence, sexual assault, stalking, domestic violence and dating violence as defined herein.
  - b. Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
  - c. Causing the sexual organ of another person, without that person's consent, to

contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

- i. unwelcome intentional touching; or
- ii. deliberate physical interference with or restriction of movement.

4. Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:

- a. explicit or implicit propositions to engage in sexual activity;
- b. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
- c. gratuitous remarks about sexual activities or speculation about sexual experiences;
- d. persistent, unwanted sexual or romantic attention;
- e. subtle or overt pressure for sexual favors;
- f. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
- g. deliberate, repeated humiliation or intimidation based upon sex.

**S. SEXUAL MISCONDUCT:** A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. The term includes “other inappropriate sexual conduct” as defined above. Sexual misconduct can be committed by any person, including strangers or acquaintances

**T. SEXUAL VIOLENCE:** Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

**U. STALKING<sup>viii</sup>:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition—

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

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
  - i. bodily injury or death for the other person;
  - ii. bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
  - iii. that an offense will be committed against the other person's property;

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

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

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

## **XII. Relevant Federal and State Statutes and Standards**

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

B. Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e–2000e-17 and its implementing regulations 29 C.F.R. § 1604.11

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

D. FERPA Regulations, 34 C.F.R. Part 99

E. Texas Education Code, Subchapter E-2: Reporting Incidents of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking §51.251-51.259

F. Texas Education Code, Subchapter E-3: Sexual Harassment, Sexual Assault, Dating Violence, and Stalking §51.281-51.291

## **XIII. Other Relevant Policies, Procedures, and Forms**

A. Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships

B. University of Texas System Administration Systemwide Policy (UTS 184), Consensual Relationships

C. Handbook of Operating Policies, Section 4.2.1, Nondiscrimination Policy and Complaint Procedure b) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and c) would cause a reasonable person to:

- i. fear bodily injury or death for himself or herself;
- ii. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
- iii. fear that an offense will be committed against the person's property; or
- iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

D. Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member

E. Student Discipline Policy

F. Staff Discipline Policy:

Handbook of Operating Policies, Section 4.9.3, Progressive Disciplinary Action

Handbook of Operating Policies, Section 10.1.1, Overview of Policies

Handbook of Operating Policies, Section 10.1.2, Code of Ethics and Standards of Conduct



G. Faculty Discipline policy:

Handbook of Operating Policies, Section 10.1.1, Overview of Policies

Handbook of Operating Policies, Section 10.1.2, Code of Ethics and Standards of Conduct

**XIV. System Administration Office Responsible for Policy**

A. Office of Systemwide Compliance

**XV. Dates Approved or Amended**

A. UT System Policy: October 1, 2019; August 2, 2018; April 6, 2015; February 21, 2012

B. UT Health San Antonio Policy: August 2017; October 2015; June 2015; November 2000

**XVI. Contact Information**

A. Questions or comments about this Policy should be directed to:

[SystemwideTitleIX@utsystem.edu](mailto:SystemwideTitleIX@utsystem.edu)