
Note: This policy addresses employee complaints of sex discrimination, sexual harassment, sexual violence, and retaliation. For additional legally referenced material relating to this subject matter, see DAA(LEGAL). For sex discrimination, sexual harassment, sexual violence, and retaliation targeting students, see FFDA.

Title IX

Grievance
Procedures

A recipient of federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action which would be prohibited by 34 C.F.R. Part 106 (Title IX regulations). *34 C.F.R. 106.8(b); North Haven Bd. of Educ. v. Bell, 456 U.S. 512 (1982)*

Compliance
Coordinator

Each recipient of federal financial assistance shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under 34 C.F.R. Part 106 (Title IX regulations), including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part. The recipient shall notify all its students and employees of the name, office address, and telephone number of the employee or employees. *34 C.F.R. 106.8(b)*

**State Law Requiring
a Sexual Assault
Policy**

Each postsecondary educational institution, including each college district, shall adopt a policy on campus sexual assault applicable to each student enrolled at and each employee of the institution. The policy must:

1. Include:
 - a. Definitions of prohibited behavior;
 - b. Sanctions for violations; and
 - c. The protocol for reporting and responding to reports of sexual assault; and
2. Be approved by the institution's governing board before final adoption by the institution.

As part of the protocol for responding to reports of sexual assault adopted under this section, each postsecondary educational institution shall:

1. To the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of sexual assault and any other person who reports such an incident are

offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and

2. Notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of sexual assault to drop a course in which both parties are enrolled without any academic penalty.

Each biennium, each postsecondary educational institution shall review the institution's sexual assault policy and, with approval of the institution's governing board, revise the policy as necessary.

Education Code 51.9363(b), (f)–(g)

Distribution

Each postsecondary educational institution shall make the institution's sexual assault policy available to students, faculty, and staff members by:

1. Including the policy in the institution's student handbook and personnel handbook; and
2. Creating and maintaining a web page on the institution's internet website dedicated solely to the policy.

Education Code 51.9363(c)

Training

Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's sexual assault policy before or during the first semester or term in which the student is enrolled at the institution. The institution shall establish the format and content of the orientation. *Education Code 51.9363(d)*

Public Awareness

Each postsecondary educational institution shall develop and implement a public awareness campaign to inform students enrolled at and employees of the institution of the institution's sexual assault policy. As part of the campaign, the institution shall provide to students information regarding the protocol for reporting incidents of sexual assault adopted under Education Code 51.9363(b), including the name, office location, and contact information of the institution's Title IX coordinator, by:

1. Emailing the information to each student at the beginning of each semester or other academic term; and
2. Including the information in the orientation required under Education Code 51.9363(d).

Education Code 51.9363(e)

Reporting Required

Employees
Generally

An employee of a postsecondary educational institution, including a college district, who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX coordinator or deputy Title IX coordinator. *Education Code 51.252(a)*

Exception

A person is not required to make a report under this section concerning:

1. An incident in which the person was a victim of sexual harassment, sexual assault, dating violence, or stalking; or
2. An incident of which the person received information due to a disclosure made at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution.

Education Code 51.252(d)

Contents of Report

The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. *Education Code 51.252(b)*

Confidentiality

An employee of a postsecondary educational institution designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law shall, in making a report, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy. *Education Code 51.252(c)* does not affect the employee's duty to report an incident under any other law. *Education Code 51.252(c)*

Unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported above is confidential and not subject to disclosure under the Public Information Act (PIA) and may be disclosed only to:

1. Persons employed by or under contract with the postsecondary educational institution to which the report is made who are

necessary to conduct an investigation or the report or any related hearings;

2. A law enforcement officer as necessary to conduct a criminal investigation of the report;
3. The person or persons alleged to have perpetrated the incident, to the extent required by other law; or
4. Potential witnesses to the incident as necessary to conduct an investigation of the report.

Education Code 51.256

*Retaliation
Prohibited*

A postsecondary educational institution may not discipline or otherwise discriminate against an employee who in good faith makes a report as required by Education Code 51.252 or cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the employee as required by Education Code 51.252. *Education Code 51.257(a)*

Exception

The prohibition does not apply to an employee who:

1. Reports an incident described by Education Code 51.252(a) perpetrated by the employee; or
2. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee perpetrated an incident described by Education Code 51.252(a).

Education Code 51.257(b)

*Prohibition on
Discipline for
Related Conduct*

A person acting in good faith who reports or assists in the investigation of a report of an incident described by Education Code 51.252(a) or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident may not be subjected to any disciplinary action by the postsecondary educational institution at which the person is enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment.

Education Code 51.254 does not apply to a person who perpetrates or assists in the perpetration of the incident reported under Education Code 51.252.

Education Code 51.254

*Failure to Report
or False Report*

A person commits an offense if the person is required to make a report under Education Code 51.252 and knowingly fails to make the

report or with the intent to harm or deceive, knowingly makes a report under Education Code 51.252 that is false.

A postsecondary educational institution shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed the offense.

Education Code 51.255(a), (c)

Title IX Coordinator

Not less than once every three months, the Title IX coordinator of a postsecondary educational institution shall submit to the institution's chief executive officer a written report on the reports received under Education Code 51.252, including information regarding:

1. The investigation of those reports;
2. The disposition, if any, of any disciplinary processes arising from those reports; and
3. The reports for which the institution determined not to initiate a disciplinary process, if any.

The Title IX coordinator or deputy Title IX coordinator of a postsecondary educational institution shall immediately report to the chief executive officer an incident reported to the coordinator under Education Code 51.252 if the coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

Education Code 51.253(a)–(b)

Chief Executive Officer

At least once during each fall or spring semester, the chief executive officer of a postsecondary educational institution shall submit to the institution's governing body and post on the institution's internet website a report concerning the reports received under Section 51.252. The report may not identify any person and must include:

1. The number of reports received under Section 51.252;
2. The number of investigations conducted as a result of those reports;
3. The disposition, if any, of any disciplinary processes arising from those reports;
4. The number of those reports for which the institution determined not to initiate a disciplinary process, if any; and
5. Any disciplinary actions taken under Education Code 51.255.

If for any semester a postsecondary educational institution has fewer than 1,500 enrolled students, the chief executive officer of the institution shall submit and post a report required for that semester only if more than five reports were received under Education Code 51.252 during that semester.

Education Code 51.253(c)–(d)

Compliance

The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board that the institution is in substantial compliance with Education Code Chapter 51, Subchapter E-2. *Education Code 51.258(a)*

Electronic Reporting

Each postsecondary educational institution, including each college district, shall provide an option for electronic reporting to the institution by an enrolled student or an employee of the institution of an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred. The electronic reporting option must:

1. Allow for anonymous reporting; and
2. Be easily accessible through a clearly identifiable link on the institution's website home page.

Institutions may contract with a third-party vendor to provide the electronic reporting option.

A protocol for reporting sexual assault adopted under Education Code 51.9363 must comply with this section.

Education Code 51.9365(b)–(d); 19 TAC 3.14

Definitions

*Dating Violence,
Sexual Assault,
and Stalking*

"Dating violence," "sexual assault," and "stalking" mean dating violence, sexual assault, or stalking, as applicable, that an institution of higher education is required to report under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f). *Education Code 51.251(2)*

Dating Violence

"Dating violence" means abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature. *Education Code 51.9365(a)(1); 19 TAC 3.13(a)*

Sexual Assault

"Sexual assault" means sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. *Education Code 51.9365(a)(3); 19 TAC 3.13(c)*

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

DIAA
(LEGAL)

Stalking	"Stalking" means a course of conduct directed at a person that would cause a reasonable person to fear for the person's safety or to suffer substantial emotional distress. <i>Education Code 51.9365(a)(5); 19 TAC 3.13(e)</i>
Sexual Harassment	"Sexual harassment" means unwelcome, sex-based verbal or physical conduct that: <ol style="list-style-type: none">1. In the employment context, unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment; or2. 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. <i>Education Code 51.251(5); 19 TAC 3.13(d)</i>
Employee	"Employee of a postsecondary educational institution" does not include a student enrolled at the institution. <i>Education Code 51.251(4)</i>