Note: This policy addresses complaints of sex discrimination, sexual harassment, sexual assault, and retaliation targeting students. For additional legally referenced material relating to discrimination, harassment, and retaliation, including the Clery Act, see FA(LEGAL). For sex discrimination, sexual harassment, sexual assault, and retaliation targeting employees, see DIAA.

Title IX
Grievance Procedures

A recipient of federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. 34 C.F.R. 106.8(a)

Coordinator

Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions that 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 appointed employee or employees. 34 C.F.R. 106.8(b)

State Law
Definitions


"Sexual harassment" means 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.

Education Code 51.251(5), .281(4); 19 TAC 3.3(e)

Employee

"Employee of a postsecondary educational institution" does not include a student enrolled at the institution. Education Code 51.251(4)
Course and Scope of Employment

“Course and scope of employment” means an employee performing duties in the furtherance of the institution’s interests. 19 TAC 3.3(b)

Sexual Assault Policy

Each postsecondary educational institution, including each college district, shall adopt a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to each enrolled student and each employee of the institution and have the policy approved by the institution’s governing body. The policy must include:

1. Definitions of prohibited behavior;
2. Sanctions for violations;
3. Protocol for reporting and responding to reports of sexual harassment, sexual assault, dating violence, and stalking that complies with the electronic reporting requirement in 19 Administrative Code 3.7;
4. Interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking pending the institution’s disciplinary process, including protection from retaliation, and any other accommodations or supportive measures available to those victims at the institution. This section is not intended to limit an institution’s ability to implement accommodations to others as needed; and
5. A statement regarding:
   a. The importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;
   b. The right of a victim of sexual harassment, sexual assault, dating violence, or stalking to report the incident to the institution and to receive a prompt and equitable resolution of the report; and
   c. The right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

As part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking 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 a sexual
harassment, sexual assault, dating violence, and stalking 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 harassment, sexual assault, dating violence, and stalking to drop a course in which both parties are enrolled without any academic penalty.

*Education Code 51.282(a), (e); 19 TAC 3.4(a), (d)(2)(C)*

### Review

Each postsecondary educational institution shall review its sexual harassment, sexual assault, dating violence, and stalking policy at least each biennium and revise the policy as necessary and obtain approval from the institution’s governing board. *Education Code 51.282(f); 19 TAC 3.4(e)*

### Distribution

Each postsecondary educational institution shall make its policy on sexual harassment, sexual assault, dating violence, and stalking available to students, faculty, and staff members by:

1. Including the policy in the student handbook and personnel handbook or the institution’s equivalent(s); and

2. Creating and maintaining a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the institution’s homepage.

*Education Code 51.282(b); 19 TAC 3.4(b)*

### Responsible Employee

Each postsecondary educational institution shall designate one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq and inform each student enrolled at the institution of the designated responsible employees. *Education Code 51.290(a); 19 TAC 3.14(a)*

### Reporting

An employee of a postsecondary educational institution 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.

The employee is required to report an incident regardless of when or where the incident occurred. Institutions may establish additional
Exception from Reporting

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;

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;

3. A sexual harassment, sexual assault, dating violence, or stalking incident in which the person has either learned of the incident during the course of his or her institution’s review or process or has confirmed with the person or office overseeing the review or process, that the incident has been previously reported.

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.

Limitations on Reporting

Each postsecondary educational institution shall designate one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking and inform each student enrolled at the institution of the designated confidential employees.

A confidential employee designated under this section may not disclose any communication made by a student to the employee unless the student consents to the disclosure or the employee is required to make the disclosure under 19 Administrative Code 3.5(c), state law, or federal law.

Absent consent from the reporting student, an employee designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, da-
ting violence, or stalking shall only state 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), .290(a), (c); 19 TAC 3.5(c), .14*

**Confidential Employees Under Other Law**

Absent consent from the reporting individual, an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking under circumstances that render the employee’s communications confidential or privileged under other law shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. *Education Code 51.252(c); 19 TAC 3.5(c)*

**Medical Providers**

Absent consent from the victim(s), an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking in the course and scope of employment as a health-care provider, mental health-care provider, or other medical provider shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. *Education Code 51.291(d); 19 TAC 3.5(c)*

**Multiple Confidential Employees**

When multiple confidential employees receive information about the same incident (e.g., student health center or counseling center), only a single report stating the type of incident is required. *19 TAC 3.5(c)*

**Reporting Under Other Law**

These limitations on disclosure do not affect the employee’s duty to report an incident under any other law, including but not limited to, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f), Family Code 261.101, or Health and Safety Code 611.004. *Education Code 51.290(c); 19 TAC 3.5(c)*

**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); 19 TAC 3.8*

**Student Advocate**

A postsecondary educational institution may designate one or more students enrolled at the institution as student advocates to whom other students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence,
and stalking. The institution shall notify each student enrolled at the institution of the student advocate(s) designated under this section.

A student advocate designated under this section may not disclose any communication made by a student to the advocate unless the student consents to the disclosure or the advocate is required to make the disclosure under state or federal law.

_Education Code 51.290(b)–(c); 19 TAC 3.15_

Each postsecondary educational institution shall provide an option for a student enrolled at or an employee of the institution to electronically report to the institution 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 via a clearly identifiable link on the institution's website home page.

A protocol for reporting sexual assault adopted under Education Code 51.282 must comply with this section.

_Education Code 51.283(a)–(c); 19 TAC 3.7_

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 for the institution’s reporting period under 19 Administrative Code 3.5, 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 institution’s chief executive officer an incident reported to the coordinator under Section 3.5 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); 19 TAC 3.6(a)–(b)_

At least once annually, 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 19 Administrative Code 3.5. The chief executive officer report may not identify any person and must include:

1. The number of reports received under Section 3.5;
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 19 Administrative Code 3.8.

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 19 Administrative Code 3.5 during that semester.

*Education Code 51.253(c)–(d); 19 TAC 3.6(c)–(d)*

If an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to a postsecondary educational institution requests the institution not to investigate the alleged incident, the institution may investigate the alleged incident in a manner that complies with the confidentiality requirements under Education Code 51.291 and 19 Administrative Code 3.17. In determining whether to investigate the alleged incident, the institution shall consider:

1. The seriousness of the alleged incident;
2. Whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged perpetrator or perpetrators;
3. Whether the alleged incident poses a risk of harm to others; and
4. Any other factors the institution determines relevant.

If a postsecondary educational institution decides not to investigate an alleged incident of sexual harassment, sexual assault, dating violence, or stalking based on the alleged victim’s request not to investigate, the institution shall take any reasonable steps the institution determines necessary and consistent with the institution’s...
policy and applicable law to protect the health and safety of the institution’s community in relation to the alleged incident.

*Education Code 51.285(a)–(b); 19 TAC 3.9(a)–(b)*

### Notice of Decision

A postsecondary educational institution shall inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking who requests the institution not to investigate the alleged incident of the institution’s decision whether to investigate the alleged incident. *Education Code 51.285(c); 19 TAC 3.9(c)*

### Confidentiality

Unless waived in writing by the person, the identity of a person described below 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. A health-care provider in an emergency, as determined necessary by the institution;
4. The person or persons alleged to have perpetrated the incident, to the extent required by other law; and
5. Potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law.

The protections provided by this section apply to:

1. An alleged victim;
2. A person who reports an incident to an institution;
3. A person who sought guidance from the institution concerning an incident;
4. A person who participated in the institution’s investigation of an incident; or
5. A person who is alleged in a report made to an institution to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking, if after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

*Education Code 51.256, .291(a), (c); 19 TAC 3.17*
Retaliation Prohibited

**Employees**

A postsecondary educational institution may not discipline or otherwise discriminate against an employee who in good faith makes a report as required by 19 Administrative Code 3.5 or cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a required report made by the employee. *Education Code 51.257(a); 19 TAC 3.18(a)*

**Exception**

The prohibition does not apply to an employee who:

1. Reports an incident of sexual harassment, sexual assault, dating violence, and stalking 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 of sexual harassment, sexual assault, dating violence, and stalking.

*Education Code 51.257(b); 19 TAC 3.18(b)*

**Any Person**

A person acting in good faith who reports or assists in the investigation of a report of an incident described by 19 Administrative Code 3.5 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 policy or code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. This provision does not apply to a person who perpetrates or assists in the perpetration of the incident reported under Section 3.5. *Education Code 51.254; 19 TAC 3.5(e)–(f)*

**Awareness**

**Orientation on Policy**

Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution’s sexual harassment, sexual assault, dating violence, and stalking policy before or during the first semester or term of enrollment at the institution. The institution shall establish the format and content of the orientation. The orientation may be provided online and must include the statements described by 19 Administrative Code 3.4(a)(5). *Education Code 51.282(c); 29 TAC 3.4(c)*

**Prevention and Outreach Program**

Each postsecondary educational institution shall develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking for enrolled students and employees of the institution. The program must:
1. Address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a public awareness campaign; a victim empowerment program; primary prevention; bystander intervention; and risk reduction; and

2. Provide students with information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking, including the name, office location, and contact information of the institution’s Title IX coordinator, by:
   a. Emailing the information to each student at the beginning of each semester or other academic term; and
   b. Including the information in the institution’s orientation, which may be provided online.

*Education Code 51.282(d); 19 TAC 3.4(d)*

**Equal Access**

In implementing the requirements under 19 Administrative Code Chapter 3, Subchapter A, a postsecondary educational institution shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are persons with disabilities. The institution shall make reasonable efforts to consult with a disability services office of the institution, advocacy groups for people with disabilities, and other relevant stakeholders to assist the institution with complying with the institution’s duties under this section. *Education Code 51.293; 19 TAC 3.16*

**Memoranda of Understanding**

To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution, a postsecondary educational institution shall enter into one or more memoranda of understanding with an entity from one or more of the following categories:

1. Local law enforcement agencies;
2. Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and
3. Hospitals or other medical resource providers.

*Education Code 51.289; 19 TAC 3.13*

**Compliance**

The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Education Code Chapter 51, Subchapter E-2. The Coor-
The Coordinating Board shall make available to institutions a required template for the certification, which satisfies the requirements of this section.

If the Coordinating Board determines that a postsecondary educational institution is not in substantial compliance with Subchapter E-2 and Education Code Chapter 51, Subchapter E-3, the Coordinating Board may assess an administrative penalty against the institution in an amount not to exceed $2 million. In determining the amount of the penalty, the Coordinating Board shall consider the nature of the violation and the number of students enrolled at the institution.

If the Coordinating Board assesses an administrative penalty against a postsecondary educational institution, the Coordinating Board shall provide to the institution written notice of the Coordinating Board's reasons for assessing the penalty. A postsecondary educational institution assessed an administrative penalty may appeal the penalty in the manner provided by Government Code Chapter 2001. A postsecondary educational institution may not pay the administrative penalty using state or federal money.

Education Code 51.258(a)–(e), .292(a)–(d); 19 TAC 3.19(a)–(e)