

# Definitions

## Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual misconduct.

## Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

## Party

“Party” means either the Complainant(s) or Respondent(s) in an investigation or action relating to a report of Prohibited Conduct.

## Confidential Resources

“Confidential Resources” are designated by the University to provide to student Complainants emergency and ongoing support and to advise the Complainant on options for reporting violations of this policy.

In light of Texas S.B. No. 212, 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 or who receives information regarding an incident under circumstances that render the employee's communications confidential or privileged under other law, shall not provide any identifying information regarding the reporter, including to the institution's Title IX Coordinator(s), without explicit consent from such reporter unless there is an imminent threat of serious harm to the individual or to others, or a legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor). Confidential Resources may submit non-identifying information about violations of this policy to the Department of Public Safety for purposes of the anonymous statistical reporting under the Clery Act. Employees can ensure confidentiality by utilizing non-University confidential resources.

## Title IX Coordinator(s)

The “Title IX Coordinator(s)” is responsible for overseeing the University's response to reports of Sexual Misconduct on campus and oversees the University's centralized response to ensure compliance with Title IX and the Clery Act (VAWA) as it relates to the accurate reporting of and response to sexual harassment and the VAWA offenses. The Title IX Coordinator(s) is also responsible for coordinating the effective implementation of supportive measures and remedies. The Title IX Coordinator(s) or the President may delegate responsibilities under this policy to a designee, who will be appropriately trained per the requirements of Title IX and VAWA. For purposes of this policy, any reference to the Title IX Coordinator(s) should be read as the “Title IX Coordinator(s) or other designee.”

In accordance with Texas S.B. No. 212, the Title IX Coordinator(s), not less than once every three months, shall submit to the President a written report on reports received including information regarding the investigation

of those reports, the disposition, if any, of any disciplinary processes arising from those reports, and the reports for which the institution declined to proceed with a disciplinary process. Further, if the Title IX Coordinator(s) has cause to believe that the safety of any person is in imminent danger because of the incident, the President shall be notified. Lastly, at least once every fall or spring semester, the President shall submit to the institution's governing body and post on the institution's website a report concerning the reports received under this policy. Such a report shall never reveal the identity of a Complainant, Respondent or Witness as defined in this document.

## Investigator

The "Investigator" is the person assigned to conduct the investigation upon the signing of a Complaint and a request for a Formal Resolution Process. The Investigator may be a Title IX Coordinator(s), an employee, or a contracted service provider.

## Decision-Maker

The "Decision-Maker" is the person or persons that will make the determination of responsibility for Emergency Removal and at the conclusion of an Informal or Formal Resolution Process or following an appeal. The Decision-Maker will provide the determination in writing and cannot be the same person as the Title IX Coordinator(s) or the Investigator on a case arise out of the same facts or circumstances. In the case of an Appeal, the Decision-Maker will be different from the person or person who made the initial determination. The Decision-Maker may be an employee or a contracted service provider. The University retains the right to establish a pool of cross-trained individuals who may serve in the capacity as an Investigator or one of the Decision-Makers, however, would never hold more than one position during a particular complaint.

## Title IX Personnel

"Title IX Personnel" include all individuals whose duties include resolution of reports and complaints of student and employee violations of this policy. All Title IX personnel shall receive annual training as required by Title IX, VAWA and Texas law. Employees falling under this description include without limitation the Title IX Coordinator(s), Investigators, Decision-makers, members of campus security, and any contracted service providers of UST with any of the responsibilities outlined herein.

## Mandatory Reporters

All faculty and staff members who are not Confidential Resources are "Mandatory Reporters." A Mandatory Reporter who witnesses or receives information regarding the occurrence of an incident that the employee believes could constitute an offense as defined in this policy shall promptly report such information to the institution's Title IX Coordinator(s) in person or via email. A report to a faculty or staff member does not result in a Complaint for purpose of triggering an investigation or Informal or Formal Resolution Processes; however, Texas law requires the reporting of that information by the Mandatory Reporter to the institution's Title IX Coordinator(s).

Texas has both civil and criminal laws to protect children from abuse and neglect and all employees of the University are mandatory reporters of Child Abuse under Texas Family Code, Section 261.109. This means that all employees have a duty to immediately report whenever they "suspect that a child has been abused or neglected." Immediate reports should be made to the Texas Department of Family and Protective Services (DFPS) by calling 1-800-252-5400 or by making a report online at the Texas Abuse Hotline Website.

## Advisor of Choice

An “Advisor of Choice” means the person of the Complainant or Respondent’s choosing who accompanies them to any meeting or disciplinary proceeding in which they are required to be present. This person can provide support, advice and/or counsel. During the investigatory stage of the process, the Advisor is not permitted to act on behalf of their Party with regard to answering questions or providing evidence on behalf of a Party. They may not be disruptive, nor may they unnecessarily delay the investigation due to their personal availability. During the Live Hearing portion of the Title IX process, the Advisor of Choice is responsible for conducting the cross-examination during a live hearing pursuant to the Title IX grievance processes. Cross-examination in this setting is limited to the other Party and witnesses. The Advisor cannot make opening or closing statements, ask questions of their own advisees, object to questions, or engage in advocacy other than that permitted herein. An Advisor is permitted in a Non-Title IX grievance process; however, their role is restricted to that during the investigatory stage as described above.

The University will not restrict the choice of an advisor and the advisor can be anyone of the Party’s choosing, although the University may remove an Advisor if he or she becomes disruptive or otherwise hinders a fair and equitable process. The involvement of an Advisor may not result in undue delay of any meeting or proceeding. During the Title IX live hearing, if a Party does not have an Advisor, the University will appoint one on behalf of the Party without fee, i.e., free of charge. In this capacity, the Advisor will be appointed for the sole purpose of conducting cross-examination of the other Party and witnesses. While any person may serve in an Advisor capacity, a member of the University community is free to decline to serve in this capacity.

## Campus Security Authority (CSA)

A “Campus Security Authority” (“CSA”) is a designated University official who has an obligation to report certain crimes reported to them to the reporting structure of the institution as required by the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). In most cases, it is possible for a CSA to fulfill his or her responsibilities while still maintaining victim confidentiality. Except in reference to a report to the Title IX Coordinator(s), a report to a CSA does not result in a Complaint for purpose of triggering an investigation or Informal or Formal Resolution Process.

## Scope and Jurisdiction

This policy governs the conduct of: University students, regardless of enrollment status; faculty; staff; and third Parties (i.e., non-members of the University community, such as vendors, alumni/ae, visitors, or local residents).

Third Parties are both protected by and subject to this policy. A third party may make a report of a suspected violation of this policy committed by a member of the University community. A third party may also be permanently barred from the University or subject to other restrictions for failing to comply with this policy.

This policy applies to conduct that occurs on University property (i.e., on campus) and in the local vicinity. This policy also applies to conduct that occurs off University property (i.e., off campus) when the conduct is associated with a University -sponsored program or activity, such as travel, research, or internship programs or when such conduct may have a continuing adverse effect or could create a hostile environment on campus. Judgments about these matters will depend on facts of an individual case.

All actions by a member of the University community that involve the use of the University’s computing and network resources from a remote location, including but not limited to accessing email accounts, will be

deemed to have occurred on campus. On-line and/or social media conduct may violate this Policy if it meets the definition of Prohibited Conduct. Online postings are in the public sphere and are not private. These postings may subject an individual to allegations of Sexual Misconduct or other misconduct. The University does not regularly search for this information nor does it monitor any particular social media site, but it may take action when such information is brought to its attention. See the University's Responsible Use of Computing Policy at [https://www.stthom.edu/Offices\\_and\\_Services/Information\\_Technology/Policies\\_Procedures/Index.aqf](https://www.stthom.edu/Offices_and_Services/Information_Technology/Policies_Procedures/Index.aqf). The University will view any Report of online Sexual Misconduct with the Respondent's free speech rights in mind.

Individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the University's ability to respond promptly and effectively. Reports and Complaints may be made at any time without regard to how much time has elapsed since the incident(s) in question.

If the Respondent is no longer a student or employee at the time of the report or Complaint, the University may not be able to take disciplinary action against the Respondent, but it will still seek to meet its Title IX or other legal obligations by offering supportive measures for the Complainant and taking steps, if necessary and possible, to end the prohibited behavior, prevent and address its recurrence, and address its effects.

For Title IX to apply, the incident must be reported while the Parties are all associated with the University (as current students or employees) and must have occurred on property owned or operated by the University, in the United States. Additionally, during the time the misconduct is reported to have occurred, the University must have had substantial control of the Respondent and the context of the misconduct.