

**UTDBP3090**

# **Nondiscrimination**

## **Policy Statement**

### **Nondiscrimination**

#### **Section I. General Policy Guidelines**

##### **A. Policy Statement**

The University of Texas at Dallas is committed to providing an educational, living and working environment that is welcoming, respectful and inclusive of all members of the university community. An environment that is free of discrimination and harassment allows members of the university community to excel in their academic and professional careers. To that end, to the extent provided by applicable federal and state law, the University prohibits unlawful discrimination against a person because of their race, color, religion, sex (including pregnancy), sexual orientation, gender identity, gender expression national origin, age, disability, genetic information, or veteran status.

The University also requires faculty, staff and student employees to complete non-discrimination training as required by federal, state and university regulations.

Retaliation against a person who files a claim of discrimination, participates in a discrimination investigation or proceeding, or otherwise opposes an unlawful employment practice is prohibited.

##### **B. Scope**

This policy applies to visitors, applicants for admission to or employment with the University, and students and employees of the university who allege discrimination by university employees, students, visitors, or contractors. Complaints of full-time faculty who are notified that they will not be reappointed, or that the subsequent academic year will be their terminal appointment, and who contend that such decisions were made for unlawfully discriminatory reasons will be referred to the Vice President for Academic Affairs and Provost for handling pursuant to the Rules and Regulations of the Board of Regents of The University of Texas System.

## C. Definitions

1. *Discrimination* 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 because of their race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, veteran status, sexual orientation, gender expression or gender identity.
2. *Harassment* as a form of discrimination is defined as verbal or physical 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 because of their race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, veteran status, sexual orientation, gender expression or gender identity 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.
3. *Verbal conduct* is defined as oral, written, or symbolic expressions that:
  - personally describe or is personally directed at a specific individual or group of identifiable individuals; and
  - is not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

Constitutionally protected expression cannot be considered harassment under this policy.

4. *Retaliation* is defined as any adverse action (including, but not limited to, intimidation, threats, coercion, harassment, or discrimination) taken against an individual involved in making a report or filing a complaint under this policy, filing an external complaint, participating in an investigation or disciplinary process, or opposing in a reasonable manner an action believed to constitute an unlawful discriminatory act in violation of this policy.

## Section II. General Procedures

### A. Training Procedures

1. The University provides training to all newly hired employees on the institutional policies and procedures that prohibit discrimination. This training must be completed no later than (30) thirty days after the date of hire. Completion of this training by all newly hired UT Dallas employees is mandatory.
2. The University provides supplemental training for all employees on institutional policies and procedures that prohibit discrimination. This training must be completed every two years. Completion of this training by all faculty, staff and student employees is mandatory.
3. If an electronic means of verifying completion of required training is not available, employees will be required to sign a statement verifying the employee's completion of the required training.
4. Failure to complete the mandatory training required by this policy will be noted by the employee's supervisor in the employee's next performance evaluation.

## **B. Reporting**

A person who believes that they have been subjected to discrimination or harassment in violation of this policy should report the incident to any university official, administrator, or supervisor. A faculty member is not an "official, administrator, or supervisor" for this purpose unless that faculty member holds an administrative position. Students, employees, and campus visitors are encouraged to report such incidents to the Office of Institutional Compliance ("IC"). Incidents should be reported as soon as possible after the time of their occurrence, which in most cases will be within thirty (30) calendar days. No person is required to report discrimination or harassment to the alleged offender.

## **C. Reporting Responsibility**

It is the responsibility of every supervisor, administrator, and University official to promptly report incidents of discrimination and harassment in violation of this policy that come to their attention even if the employee is not in their reporting structure. Reports are to be made to the Office of Institutional Compliance.

## **D. Resolution Options**

A person who believes they have 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 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.

## **E. Complaints Against Students**

All complaints against students, except for those that fall under the University's Sexual Misconduct Policy - UTDBP3102, will be initially addressed by the Dean of Students Office. The Dean of Students, or designee, will attempt to address the complaint through informal resolution as outlined below. If attempts at informal resolution are unsuccessful, the complaint will be forwarded to IC and a formal investigation will be initiated, if appropriate.

# **Section III. Informal Resolution Procedure**

## **A. Informal Resolution**

Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature and disciplinary action is not anticipated to be required to remedy the situation. No formal investigation is involved in the informal resolution process.

A request for informal resolution should be reported as soon as possible after the occurrence of the incident, which in most cases will be within thirty (30) calendar days, to IC ,who shall

determine whether the nature of the problem is such that it can be resolved by agreement on an informal basis. Methods for informal resolution may include, but are not limited to: coaching the person on how to directly address a situation that is causing a problem; mediating the dispute with the parties; aiding in the modification of a situation in which the offensive conduct occurred; assisting a department or division with the resolution of a real or perceived problem; or arranging a documented meeting with the alleged offender that involves a discussion of the requirements of the Nondiscrimination Policy.

The University shall document any informal resolution. Such documentation shall be retained by the Dean of Students Office or IC, as appropriate, and will be kept confidential to the extent permitted by law. An informal resolution meeting shall not be considered a precondition for the filing of a formal complaint.

## **Section IV. Complaint Resolution Procedure**

### **A. Definitions**

*A Complaint* means a document alleging discrimination, including harassment under this policy.

*Complainant* means a person who submits a complaint alleging discrimination, including harassment under this policy.

*Respondent*: Respondent means the person designated to respond to a complaint. Generally the respondent would be the person alleged to be responsible for the prohibited discrimination or harassment alleged in a complaint. The term "Respondent" may be used to designate persons with direct responsibility for a particular action or those persons with administrative responsibility for procedures and policies in those areas covered in a complaint.

*Notification*: Notification takes place two business days after the date of posting of any properly addressed document in the United States mail, or upon the date of receipt of any document sent via email. Written communications to a complainant are properly addressed when sent to the address given in the complaint or the last address given since the filing of the complaint.

### **B. Complaint Procedure**

1. *Formal Complaint*: A complaint alleging discrimination or harassment must be submitted to IC. It is recommended that the Complainant provide the following information:
  - Name and UTD Identification Number of the Complainant(s);
  - Contact information, including address, telephone, e-mail;
  - Name of person(s) directly responsible for alleged violation(s);
  - Date(s) and place(s) of alleged violation(s);
  - Nature of alleged violation(s) as defined in this policy;
  - Detailed description of the specific conduct that is the basis of alleged violation(s);
  - Copies of documents pertaining to the alleged violation(s);
  - Names of any witnesses to alleged violation(s);

- Action requested to resolve the situation; and
- Any other relevant information.

The following communications do not constitute a complaint and will not be investigated or resolved pursuant to the complaint resolution process:

- Courtesy copies of correspondence or a complaint filed with others
  - Inquiries that seek advice or information only
  - Pre-complaint consultations and informal resolution activities.
2. *Time Limit:* A written complaint should be filed as soon as possible from the date of the occurrence of the alleged violation, which in most cases will be within thirty (30) calendar days. Failure to file a complaint in a timely manner may limit the University's ability to thoroughly investigate the allegations.
  3. *Acknowledgement:* Within five (5) business days after receipt of a written complaint, IC will send the complainant a brief acknowledgment of the complaint, stating that the complaint will be evaluated, and advising the complainant(s) that they will be contacted within a given time. The acknowledgment letter will include a copy of the complaint procedures.
  4. *Complaint Evaluation:* A formal investigation will be initiated if a complaint is complete, within the scope of this policy and articulates sufficient specific facts, which, if determined to be true, would support a finding that this policy was violated. The University may not proceed with a complaint investigation under a variety of circumstances, for instance:
    - a complaint fails to describe in sufficient detail the conduct that is the basis of the complaint;
    - the conduct described in the complaint is not covered by this policy;
    - the complainant declines to cooperate in the University's investigation;
    - the complaint has been withdrawn; or
    - an appropriate resolution or remedy has already been achieved or has been offered and rejected.

If it is determined that the University will not proceed with a complaint investigation, IC will send a notification letter explaining the reason(s) to the complainant, with a copy to the alleged offender when appropriate. The notification letter will also include a statement informing the complainant that, within ten (10) business days of the notification, they may appeal the determination not to proceed with a complaint investigation to the Chief Compliance Officer. If the Complainant is a member of the faculty, the appeal will be forwarded to the Vice President for Academic Affairs and Provost. The request for appeal must be a signed written document articulating why the decision to dismiss the complaint was in error. The appropriate vice president will respond within twenty (20) business days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision to dismiss is overturned, the complaint is sent back to IC for investigation in accordance with the procedures outlined below.

5. *Notification of Respondent:* If it is determined that the University will proceed with a complaint investigation, IC will give the respondent written notification of the complaint investigation. The notification letter will include a copy of the allegations. The notification letter will provide the respondent an opportunity to submit a written response to the allegations within ten (10) business days, unless unusual circumstances warrant

additional time. The notification letter will include a statement advising the respondent that retaliation against the complainant is prohibited and will subject the respondent to appropriate disciplinary action.

6. *Investigation Responsibility:* IC is responsible for conducting all formal investigations of complaints alleging discrimination and harassment in violation of this policy. If a complaint is directed against an individual who would otherwise play a role in investigating and attempting to resolve the complaint, the function assigned to that person by these procedures will be delegated to another person.
7. *Investigative Process and Findings:* The investigator will interview both the complainant and the respondent(s) and persons who are considered to have pertinent factual information related to the complaint. The investigator shall also gather and examine documents relevant to the complaint. 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. Findings will be based on the totality of circumstances surrounding the conduct 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.
8. *Representation:* During the complaint process, the complainant(s) and the respondent(s) may designate and thereafter be accompanied by an advisor of their choosing at meetings and interviews at which they are present; however, no advisor may examine witnesses or otherwise actively participate in a meeting or interview.
9. *Submission of Evidence:* During the complaint investigation process, the complainant(s) and the respondent(s) will provide IC with all documents relied upon regarding the issues raised in the complaint.
10. *Report of Findings and Recommendation - Complaints Against Non-Students:*
  - a. The investigator will provide a proposed statement of findings, copies of relevant documents and any physical evidence considered to the appropriate vice president within thirty (30) business days of receipt of the respondent's statement, unless unusual circumstances require more time. The appropriate vice president to act on complaints against faculty and staff will be the vice president over the area where the respondent is employed. The appropriate vice president to act on complaints against contractors will be the Vice President for Facilities and Economic Development. The appropriate vice president to act on complaints against visitors will be the Chief Compliance Officer. If a complaint is directed against a vice president who would otherwise act on a complaint, the function assigned to that vice president will be delegated to the President or their designee
  - b. The appropriate vice president will promptly notify the complainant and the respondent that the investigation has been completed and attach a copy of the proposed statement of findings. Student identifiable information, if any, which is confidential by law, will be redacted. Within ten (10) business days from the date of notification, the complainant and respondent may each submit, for consideration by the appropriate vice president, such comments and corrections as they may have.
  - c. Within ten (10) business days of the notification to the complainant and the respondent that the investigation has been completed, the appropriate vice president and the investigator shall meet to discuss the findings, and review the

record, along with any comments and proposed corrections submitted by the complainant and respondent.

- d. Within ten (10) business days from that meeting, the vice president shall take one of the following actions: a) request further investigation into the complaint; b) dismiss 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.
- e. If the vice president determines that this policy was violated, they will, following consultation with the investigator, Human Resources, or other knowledgeable persons as appropriate, shall determine a disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions can include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension without pay, and termination.
- f. The vice president shall inform the complainant and respondent(s), and the appropriate unit head in writing of their decision, and shall attach a copy of the final statement of findings. Copies of the vice president's letter, the attached statement of findings, and relevant documents shall also be sent to the Office of the Dean of Students or the Office of Human Resources, Institutional Compliance.

11. *Report of Findings and Recommendation - Complaints Against Students:*

- a. The investigator will provide a proposed statement of findings, copies of relevant documents and any physical evidence considered to the Dean of Students within ten (10) business days of receipt of the respondent's statement, unless unusual circumstances require more time. The Dean of Students and the investigator shall meet within fifteen (15) business days to discuss the findings, and review the record.
- b. Within ten (10) business days from that meeting, the Dean of Students shall take one of the following actions: a) request further investigation into the complaint; b) dismiss 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.
- c. If the Dean of Students determines that this policy was violated, the Dean, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine whether to initiate a disciplinary action appropriate to the severity of the conduct pursuant to University Policy UTDSP5003 (Student Code of Conduct), Section B, Administration of Discipline. Disciplinary actions can include, but are not limited to, a documented warning, the imposition of conditions, probation, suspension, and dismissal.
- d. As required by federal law, any disclosure of the findings and decision of the Office of the Dean of Students will be governed by the provisions of the Family Educational Rights and Privacy Act.

## **Section V. Miscellaneous**

### **A. Grievance of a Disciplinary Action:**

1. Any employee disciplined pursuant to this policy, except faculty, graduate research assistants, graduate teaching assistants, graduate assistants or members of the University of Texas at Dallas Police Department (each of whom are subject to separate grievance procedures), may grieve that action by submitting a written grievance, within ten (10) business days of the imposition of the disciplinary action, to the president's office. Ordinarily, the president will assign responsibility for review and action on the appeal of the vice president's action to another vice president; however, when required by unusual circumstances, the president may review and handle a grievance pursuant to this policy.
2. If the disciplinary action that is being grieved does not involve termination, demotion, or suspension without pay, the vice president shall thoroughly review and finally decide the matter within thirty (30) calendar days of its receipt unless unusual circumstances require more time.
3. If the disciplinary action that is being grieved involves the termination, demotion or suspension without pay of a faculty member with the rank of Regental Professor, Professor, Associate Professor, Assistant Professor, or Instructor, the vice president or provost who is assigned to review the grievance shall follow the procedures for appealing such actions contained in the UTD Faculty Grievance Procedure, UTDPP1050. Complainants will be required to appear and testify at hearings that may be a part of such proceedings.
4. Any student disciplined under this policy has the right to appeal as provided in University Policy UTDSP5003, Section G (Appeals). The student must give written notice of appeal to the Vice President for Student Affairs within seven (7) calendar days after all parties are notified of the decision.

### **B. Retaliation Prohibited:**

A student, faculty, or staff member who retaliates in any way against an individual who has brought a complaint pursuant to this policy or participated in good faith in an investigation of such a complaint, is subject to disciplinary action, up to and including dismissal from the University.

### **C. Filing of 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 from the University.

### **D. Effect on Pending Personnel Actions:**

The filing of a nondiscrimination or retaliation complaint will not stop or delay any evaluation or disciplinary action related to the complainant who is not performing up to acceptable standards

or who has violated University rules or policies.

### **E. Relationship of Complaint Process to Outside Agency Time Limits:**

The filing of a discrimination or harassment complaint under this policy does not excuse the complainant from meeting the time limits of outside agencies.

### **F. Relationship to Grievance Procedure:**

This complaint procedure shall also constitute the grievance procedure for complaints alleging unlawful discrimination. As used herein, "complaint" is synonymous with "grievance."

### **G. Time Frame:**

Time frames mentioned in these procedures may be extended for good cause, such as holidays or when classes are not in session, or when it is necessary to complete an investigation due to difficulties reaching witnesses or parties to the complaint.

### **H. Documentation and Confidentiality:**

The University shall maintain documents related to complaints under this policy as required by law. IC shall be primarily responsible for records related to complaints. The confidentiality of a complaint under this policy and all documents, correspondence, interviews and discussions relating to the investigation of the information contained in a complaint will be maintained on a need-to-know basis to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise relating to the investigation of a complaint under this policy is subject to disciplinary action.

**For Assistance:** Questions regarding this policy should be directed to Institutional Compliance.

**Sources:** Titles VI and VII of the Civil Rights Act of 1964, as amended; Age Discrimination in Employment Act of 1967, as amended; Age Discrimination Act of 1975; Americans with Disabilities Act of 1990; Equal Pay Act of 1963; Uniformed Services Employment and Reemployment Rights Act; Genetic Information Nondiscrimination Act of 2008; Executive Order of 11246, as amended; Sections 503 and 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; Texas Labor Code, Chapter 21; UT System Board of Regents Rule 10701, 31002, 31007; UT System Policy UTS105.

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

- [Consensual Relationships - UTDBP3103](#)

- [Reporting Suspected Unlawful Activity and Protection from Retaliation - UTDBP3105](#)
- [Student Code of Conduct - UTDSP5003](#)
- [Discipline and Dismissal of Classified Employees - UTDBP3056](#)
- [University Policy on Faculty Conduct - UTDPP1049](#)
- [Regents' Rules and Regulations, Rule 31008, Termination of a Faculty Member](#)
- [Regents' Rules and Regulations, Rule 30105, Sexual Harassment, Sexual Misconduct, and Consensual Relationships](#)
- [University of Texas System Administration Systemwide Policy \(UTS 184\), Consensual Relationships](#)

## RESPONSIBLE PARTY

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## LAST REVIEWED

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