

CHARGE OF DISCRIMINATION

Form 5 (06/24)

This form is affected by the Privacy Act of 1974.

See attached Privacy Act Statement and other information before completing this form.

CHARGE PRESENTED TO:

EEOC
California Civil Rights Department

AGENCY CHARGE NO.

480-2025-03619

Name (*indicate Mr., Ms., Mrs., Miss, Dr., Hon., Rev.*): Mr. Byron J. Wilson

Phone No.: (910) 528-1726

Year of Birth: 1980

Mailing Address: 157 S. Los Robles Ave. #7

PASADENA, CA 91101

Named below is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency that I believe discriminated against me or others.

Name: UNIVERSITY OF TEXAS AT AUSTIN

No. Employees, Members: 501+ Employees

Phone No.: (301) 215-8798

Mailing Address: 2500 SPEEDWAY

AUSTIN, TX 78712, UNITED STATES OF AMERICA

Name:

No. Employees, Members:

Phone No.:

Mailing Address:

DISCRIMINATION BASED ON:

Race, Retaliation

DATE(S) DISCRIMINATION TOOK PLACE

Earliest: 02/13/2025

Latest: 04/16/2025

Continuing Action

THE PARTICULARS ARE:

I.I was hired on or about January 5, 2022, and my current position is Associate Professor of Practice. On or about August 15, 2024, I filed a Charge of Discrimination (480-2024-02905) with the U.S. Equal Employment Opportunity Commission (EEOC) alleging discrimination due to my race. Beginning or about April 4, 2025, I have been subjected to different terms and conditions of employment by Karol Murlak, Department Chair of Design, including but not limited to reduced course assignments for the next semester placing me below 50% of the typical workload for a full time Associate Professor and additional requirements to acquire approval of research activities. On or about April 16, 2025, I was notified that I would be demoted to Senior Lecturer, would lose all benefits, and could only teach one course the following semester.

II.I was not provided a clear explanation as to why I was subjected to different terms and conditions of employment or demotion even though I had requested clarification on the results of the Faculty Development Support Plan I completed the previous school year.

III.I believe I have been discriminated against due to my race and retaliated against for engaging in a protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct, and that I have read each page of this form.

Digitally Signed By: Mr. Byron J. Wilson

04/30/2025

Charging Party Signature & Date

If a state or local Fair Employment Practices Agency (FEPA) requires notarization, you may need to sign the charge in the presence of a notary. If so, please do so here.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information, and belief.

Notarized Signature of Charging Party

Subscribed and sworn to before me this date:

Signature of Notary _____

Printed Name _____

CP ENCLOSURE WITH EEOC FORM 5 (06/24)

PRIVACY ACT STATEMENT

Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

- 1. FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (06/24).
- 2. AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
- 3. PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
- 4. ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
- 5. WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so *within 15 days* of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA, Section 207(f) of GINA, and 42 USC 2000gg-2(f)(1) of the PWFA it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

April 1, 2025

This statement is prepared in response to the Charge of Discrimination filed on April 30, 2025, by Byron Wilson to the Equal Employment Opportunity Commission.

1. My name is Karol Murlak, and I am an employee of The University of Texas at Austin and the Chair of the Department of Design.

Entry Conditions

2. Byron Wilson was initially hired by my predecessor as an Associate Professor of Practice, with the expectation that he would teach two three-credit courses in the fall semester and two in the spring (2–2 load), accounting for his increased administrative responsibilities. Historically, the department has not needed more than two courses per semester in his area of expertise. However, due to poor teaching outcomes and student complaints in Fall 2023, he was placed under a Performance Improvement Plan (PIP) by Assistant Dean Doreen Lorenzo. This plan relieved him of administrative duties to allow him to focus solely on his teaching responsibilities. As part of the plan, he was assigned a teaching load typical for a Professor of Practice—three three-credit courses per semester in both fall and spring (3–3 load). This decision was aligned with the role of a Professor of Practice, whose primary responsibility is teaching. While the PIP led to some improvement in Byron Wilson’s teaching, it was deemed necessary for him to maintain the 3–3 load, but the department did not have a sufficient number of appropriate courses available within his field to support this teaching load.

Option III Program

3. Byron Wilson was primarily hired to support our Option III program, MA in Design focused on Health, a program aligned with his area of specialization. However, this program is currently facing significant challenges. Option III programs at The University of Texas at Austin are expected to be not only financially self-sustaining but also profitable. In recent years, approximately 50% of our MA program’s budget was

delivered by the Dell Medical School. The Memorandum of Understanding (MOU) with Dell Medical School expires this year, and they have communicated their decision not to renew it. As a result, I was forced to cut the instructional budget by half, including a 50% reduction in instructional compensation across the board. Byron Wilson has not been treated differently from any other faculty member teaching within this program.

Teaching Load

4. Despite these limitations, I made an effort to retain as much of his teaching assignment as possible. Last year, in an attempt to meet the increased teaching load required under the PIP, he began teaching courses outside of his original area of specialization. The department even offered a new elective course specifically for him. However, only three students enrolled in the class, far below The University of Texas at Austin's minimum enrollment requirement of ten students. Nevertheless, to use his expertise where it was applicable, I secured one three-credit course for him in the upcoming fall semester and two additional courses worth a total of three credits for the spring semester.

Title

5. Although the number of available classes was insufficient to support a full-time teaching position, I initially attempted to maintain his academic title. After my discussions with Byron Wilson, the Dean decided to change his title to Senior Lecturer to ensure consistency and fairness with other part-time faculty members within the College of Fine Arts. For this reason, Byron was first informed that he would retain his title and later notified of the change. An email was sent to Byron Wilson by Timothy Creswick, on April 16, 2025, providing a detailed justification for this decision.

Research

6. At no point did I instruct Byron Wilson to “acquire approval of research activities.” His research activities were mentioned in the Performance Improvement Plan, which was enacted before I began my tenure at The University of Texas at Austin. Byron Wilson and I discussed his research twice: the first time was in my office shortly after I started as Department Chair. During this meeting, I advised him to follow the Dean’s Office guidelines. The second conversation occurred in April, when I again referred him to the

Assistant Dean's recommendations as outlined in the summary letter of his Performance Improvement Plan. An email was sent to Byron Wilson by Timothy Creswick, on April 16, 2025, with further clarification on the issue.

Quality of Teaching

7. Although Byron Wilson's teaching did improve during the course of the Performance Improvement Plan, it still did not meet the standards expected by the department. This academic year, some of his student evaluations yielded an average score of only 3.6. In addition, I continued to receive student complaints about his classes. As Chair, I am responsible for ensuring the highest quality of instruction, and I am not yet confident that the improvements observed are deep or lasting. There is a significant risk of regression to earlier performance levels, given that some of his past course evaluation scores were as low as 1.75 or 3.00, and some of his most recent scores are only marginally higher.

End of Contract

8. Byron Wilson's Professional Track contract will end this summer. Although the department has the option to renew such contracts, it is under no obligation to do so. The assumption that time-limited contracts are automatically renewed is incorrect. These contracts are intended to give departments flexibility to make personnel changes when the needs of a department change or there are doubts about the quality of teaching. In this case, I have seen evidence of both satisfactory and extremely poor performance, which prevents me from endorsing a renewal of a full-time appointment.
9. Finally, communication with Byron Wilson has been consistently difficult. He frequently fails to respond to emails or does so only after significant delays. He also fulfills his obligations with significant delays—for instance, he submitted his Faculty Annual Review over a month late. This lack of responsiveness and punctuality further reinforces my concerns and has made working with him exceptionally challenging.
10. Byron Wilson's courseload reduction had nothing to do with his race and I did not retaliate against him. My decision was based on the lack of sufficient demand for the courses he teaches, which did not allow for a full-time appointment, and the difficult



The University of Texas at Austin
**School of Design and
Creative Technologies**
College of Fine Arts

Department of Design
2300 Trinity Street,
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financial situation of the program he was primarily hired to support. Additional concerns involved the uneven and often unsatisfactory quality of instruction in his classes, as well as persistent communication issues, most notably his frequent failure to respond to emails, which made working with him extremely difficult.

A handwritten signature in black ink, appearing to read "Karol Murlak".

Karol Murlak, PhD
Chair of the Department of Design

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

3

[REDACTED]

[REDACTED]

[REDACTED]

From: Creswick, Timothy J <timcreswick@austin.utexas.edu>

Date: Wednesday, April 16, 2025 at 10:11 AM

To: Wilson, Byron <byron.wilson@austin.utexas.edu>

Cc: Murlak, Karol <karol.murlak@austin.utexas.edu>

Subject: Meeting Follow Up

Byron,

At our meeting on April 4, 2025, I promised to inquire as to your eligibility to be a principal investigator and whether you can pursue research activity now.

First, as I stated in that meeting, the message you received from the dean on February 13, 2025 informed you that your Performance Improvement Plan has concluded, including that plan's restriction of your research activity.

Second, I have confirmed with the VP for Research Office and the Provost's Office that your supervisor (who is your chair with oversight of the dean) has the authority to decide whether any faculty supervisee can allocate any of their faculty effort to a sponsored research grant, rather than to that faculty member's other obligations (e.g. teaching, service, mentoring).

So, from now until the end of summer (if you accept the summer administrative assignment), you have the same eligibility to apply for and work on sponsored research grants that you did prior to the Performance Improvement Plan. However, the timing is probably not conducive to successfully advancing a new project, because your position is expected to reduce to parttime next fall semester and there will be little room within the proposed 14% faculty appointment with a 1+1 course load for the chair to approve allocation of effort toward advancing a research project. Of course, you could be considering working on someone else's lab/project for which they might be

able to compensate you above the effort allocated by your faculty appointment in Design. And it's possible that a project of the right timing or scope could fit into your planned faculty appointment.

Can you answer a few questions about the proposed research activity you are considering undertaking for your chair and dean to consider the specifics?

Are you planning to draft and propose a new sponsored research grant proposal as principal investigator? If this is your plan, please describe the project proposal and timeline so that your chair, with oversight of the dean, can consider whether that scope can reasonably be accomplished within your appointment and alongside existing/expected duties. Are you planning to join an existing UT Austin research team under an existing principal investigator? If so, can you give us more information about that project and your activity in it so that your chair, with oversight of the dean, can decide if that allocation of your effort to that research project is acceptable under your current and future faculty appointments?

Third, there is one change to something we discussed in the meeting.

In the meeting, Karol said that he plans to offer you reappointment for AY 2025-26 at parttime, non-benefits eligible (~14%) at your current faculty title and rank, Associate Professor of Practice, to teach a 1+1 course load. However, the dean did not approve your reappointment to the same rank and title. Instead, the dean has instructed us to laterally reclassify your faculty position from Associate Professor of Practice to Senior Lecturer, effective Fall 2025. Senior Lecturer is the equivalent rank in the "lecturer" title series to Associate Professor of Practice, thus a "lateral" reclassification. Your fulltime annual rate of pay is expected to remain the same after this reclassification. You would be sent your offer letter after the chair, dean, and provost's office approve this lateral reclassification.

The reason for this lateral reclassification is to better align your role in Fall 2025 and beyond with the College of Fine Arts' use of professional-track faculty titles per its [college policy](#). Practice series faculty members in Fine Arts are usually fulltime, are expected to contribute service, and have longterm expectation of employment year-after-year. Lecturer series faculty members in Fine Arts are hired course-by-course, are usually expected to only contribute teaching, and should not have any expectation of employment after the end date listed in the offer letter. The job duties Karol plans to offer you for AY 2025-26 -- a 1+1 course load, no expectation in research, no expectation in service -- fit the College of Fine Arts' use of the Lecturer series better than the Practice series.

Per the VP for Research office, as an Associate Professor of Practice this spring and summer, you are automatically eligible to be a principal investigator. As a Senior Lecturer next fall, you would not be eligible to be a principal investigator, unless you chair or dean approve for you to be one. See this [website](#) for more details of principal investigator eligibility.

Thank you,
Tim

TIM CRESWICK, Director of Faculty Advancement
The University of Texas at Austin | College of Fine Arts | 512-232-4629 |
timcreswick@austin.utexas.edu

University's
Exhibit**4**

Handbook of Operating Procedures 3-3020

Nondiscrimination Policy

Effective March 14, 2023

Executive Sponsor: Chief Compliance Officer

Policy Owner: Associate Vice President for Investigation and Adjudication

I. Policy Statement

The University of Texas at Austin (University) is committed to providing an educational and working environment for students, faculty, and staff that is free from discrimination and harassment based on race, color, sex, pregnancy, gender, gender identity, sexual orientation, gender expression, religion, age, national origin, ethnicity, veteran status, disability, genetic information, military status, or any other legally protected basis^[1]. This Policy prohibits such conduct.

This Policy also prohibits retaliation against someone because the individual reported under this Policy, opposed an unlawful practice, participated in an investigation, or requested supportive measures. Finally, this Policy prohibits failing to cooperate in good faith, filing false complaints or providing materially false information, interfering with this Policy's processes, abusing the investigation process, or failing to report incidents reasonably believed to constitute discrimination, harassment, or retaliation.

This Policy does not cover prohibited conduct of a sexual nature. Procedures for reporting sexual assault, interpersonal violence, stalking, and sexual harassment, are addressed by [Handbook of Operating Procedures \(HOP\) 3-3031](#). While these are forms of sex discrimination, their sexual nature removes them from the purview of this Policy.

Inquiries regarding this Policy may be directed to the [Department of Investigation and Adjudication \(DIA\)](#) at 512-471-3701 or dia@austin.utexas.edu.

II. Who this Policy Applies To

This Policy applies to all University faculty, staff, employees, students, student organizations, visitors, contractors, University affiliates, and applicants for admission to or employment with the University and others conducting

business on campus. Reports and Complaints against individuals subject to this Policy are processed according to the parameters set out below. Reports and Complaints against individuals not subject to this Policy are processed to provide support resources to the affected individual where appropriate.

III. Where this Policy Applies

This Policy applies to conduct that occurs on campus, in University-owned housing, or in an education program or activity. Campus means any building or property owned or leased by the University that is used in direct support of the University's educational purposes. An education program or activity means locations, events, or circumstances over which the University exercises substantial control, and includes any building owned or controlled by a registered student organization. This Policy applies to off-campus conduct when the conduct substantially affects a person's education or employment with the University or poses a risk of harm to members of the University community.

IV. Policy Violations

The following are categories of conduct that violate this Policy. Individuals who believe they have been subjected to conduct that violates this Policy are encouraged to file a Complaint with the University using the procedures described below (See Section VII.B.1). Any person found in violation of this Policy is subject to disciplinary action, up to and including termination or expulsion, or losing affiliate status.

(A) Discrimination: Conduct directed at an individual or group of identifiable individuals that subjects them to treatment that creates a materially adverse impact to their employment or education because of their race, color, sex, pregnancy, gender, gender identity, sexual orientation, gender expression, religion, age, national origin, ethnicity, veteran status, disability, genetic information, military status, or any other legally protected basis.

(B) Harassment: Verbal or physical conduct that is directed at an individual or group because of their race, color, sex, pregnancy, gender, gender identity, sexual orientation, gender expression, religion, age, national origin, ethnicity, veteran status, disability, genetic information, military status, or any other legally protected basis. This conduct must be sufficiently severe or pervasive so as to have the purpose or effect of interfering with the impacted individual's academic or work performance.

Constitutionally protected speech or expression is not considered Harassment under this Policy [2]. Harassment that is not based on the protected characteristics set out here is governed by Chapter 13 of the Institutional Rules (See Section 13-204). Sexual harassment is governed by HOP 3-3031.

When examining whether behavior was sufficiently severe or pervasive or materially adverse, DIA will look to how an objectively reasonable person would have experienced or

viewed the behavior.

(C) Retaliation: Any action taken to cause a materially adverse effect in the terms or conditions of an individual's academic experience or employment with the University, or other institutional status of a student, employee, University affiliate, visitor, or applicant for admission or employment with the University, because an individual has in good faith reported or brought a complaint under this Policy, opposed an unlawful practice, participated in an investigation, or requested supportive or protective measures.

Examples of retaliation include, but are not limited to, denial of an educational opportunity, experience or promotion; non-selection/refusal to hire; denial of job benefits; demotion or negative impact on grades or academic status; suspension; discharge; reprimands; negative evaluations; harassment; or other adverse treatment that is likely to deter reasonable people from pursuing their rights.

Retaliation may be found even when an underlying Report or Complaint made in good faith was not substantiated.

(D) Investigation Participant Violations:

(1) Failing to Cooperate

Everyone who is subject to this Policy must cooperate in good faith with University investigations. Failing to cooperate in good faith is a violation of this Policy. Good faith cooperation includes, but is not limited to:

- providing full and truthful answers during the investigation;
- identifying witnesses to the alleged conduct or other relevant witnesses;
- providing full and complete documents relevant to the alleged conduct;
- responding to requests for interviews or information from DIA or any other University administrator; and
- appearing for scheduled meetings or interviews.

(2) Filing of False Complaints and Providing Materially False Information

It is a violation of this Policy to knowingly and intentionally file a false Complaint or Report under this Policy or to knowingly and intentionally provide materially false information about an alleged violation under this Policy. A Complaint or Report that is ultimately unsubstantiated is not a false Complaint or Report unless it was filed in bad faith. Bad faith is an intent to harm or deceive.

Information is materially false if it is untrue and would tend to influence the outcome of an investigation of an alleged violation under this Policy.

(3) Investigation Process Interference

Any person who intentionally interferes with the administration of this Policy commits a violation of this Policy. Interference may include, but is not limited to:

- attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;

- removing, destroying, withholding, or altering documentation relevant to the Complaint or Report; or
- knowingly providing false or misleading information to DIA or any other University administrator or encouraging others to do so.

(4) Abuse of Investigation Process

This Policy prohibits individuals from abusing the investigative process. DIA will determine whether conduct is an abuse of the process by assessing the totality of the circumstances. Abuse of the investigation process is a pattern of behavior that overburdens DIA staff and resources, including but not limited to:

- repeatedly refusing to specify Complaint or Report allegations;
- repeatedly failing to timely schedule or appear at investigative interviews or meetings, without good cause; or
- filing multiple Complaints or Reports on the same or substantially similar events.

(E) Failing to Report Known Incidents of Discrimination, Harassment, and Retaliation: Every supervisor, administrator, University official, or other employee who has the authority to take action to redress an alleged violation, *must* promptly report to DIA any incidents reasonably believed to constitute discrimination, harassment, or retaliation in violation of this Policy that come to their attention during the course of their employment.

V. Website (for policy)

<https://secure4.compliancebridge.com/utexas/public/getdoc.php?file=3-3020>

VI. Contacts

CONTACT	DETAILS	WEB
Department of Investigation and Adjudication	Phone: 512-471-3701	Website: https://compliance.utexas.edu/programs/dia Email: dia@austin.utexas.edu
University Risk and Compliance Services	Phone: English: 877-507-7321 Español: 800-216-1288	Website: https://compliance.utexas.edu/ Email: compliance@austin.utexas.edu

VII. Responsibilities & Procedures

A. Definitions

1. **Complainant:** The individual who is alleged to be the victim of any prohibited conduct under this Policy.
2. **Complaint:** Information, including oral statements (if appropriately acknowledged), submitted to DIA by a Complainant, alleging a violation of this Policy.
3. **Notification:** Notification under this Policy occurs on the date any document is sent by electronic mail and/or facsimile, when properly addressed. Notification may also occur two days after the date of posting of any document in the United States mail, properly addressed, or upon the date of receipt of any document, when placed in the campus mail, properly addressed. DIA will use the address included in the Complaint or the last known address contained in DIA's file.
4. **Parties:** The "Complainant" and the "Respondent" under this Policy.
5. **Preponderance of the Evidence:** The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of conduct that violate this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.
6. **Relevant:** Evidence that has (i) any tendency to make a fact more or less probable than it would be without its existence, and (ii) the fact is of consequence in determining if a policy violation has occurred.
7. **Report:** Information, including oral statements (if appropriately acknowledged), submitted to DIA by a Reporter, alleging a violation of this Policy.
8. **Reporter:** An individual, other than a Complainant, making a Report of an incident(s) under this Policy.
9. **Respondent:** The individual and/or organization reported to be the alleged perpetrator of conduct that violates this Policy.

B. General Procedures

The University recognizes the rights of Parties to report an incident to the University and to receive a prompt and equitable resolution of the Report.

1. **Reporting Incidents.** Any person may report an incident under this Policy to DIA—via email at dia@austin.utexas.edu, via mail at 100 W. Dean Keeton, Suite 4.102, Mail Code D9250, by calling 512-471-3701, or via <https://compliance.utexas.edu/programs/dia>—regardless of whether the person reporting is the person alleged to be subject to the complained-of behavior. Any person may report incidents anonymously via the online reporting form found at DIA's website.

A person who believes that they have experienced discrimination, harassment, or retaliation should promptly report the incident to any official, administrator,

supervisor, or employee with the authority to redress an alleged violation. They are also encouraged to report such incidents to DIA directly. No person is required to report Discrimination or Harassment to the alleged offender.

2. **Complaints and Reports.** A Complaint or Report alleging a violation of this Policy shall be submitted to DIA. The Complaint or Report should contain the following information:

- Name and UT EID of the Complainant(s);
- Contact information, including address, telephone, and 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 defined conduct that is the basis of the alleged violation(s);
- Copies of any documents about the alleged violation(s);
- Names of any witnesses to the alleged violation(s) and witnesses' contact information;
- Action requested to resolve the situation; and
- Any other relevant information.

While an initial review or formal investigation may begin on the basis of a verbal Complaint or Report, the University strongly encourages individuals to file a written Complaint or Report with DIA via email (dia@austin.utexas.edu) or via DIA's online reporting system (<https://compliance.utexas.edu/programs/dia>).

If the Complaint or Report is not in writing, DIA will prepare a statement of what it understands the allegations to be and seek to obtain verification from the Complainant or Reporter.

3. **Time Limit.** Individuals must file a Complaint or Report within 180 calendar days of the most recent unlawful act. DIA may extend the 180-day filing deadline when good cause supports the extension.
4. **Acknowledgement.** Within five (5) business days after receipt of a Complaint or Report, excluding University holidays and closures, DIA will send the Complainant or Reporter a brief acknowledgment of the Complaint or Report, and may request to schedule an intake interview to gather more information regarding the allegation(s). DIA's acknowledgement will include a copy of this Policy.

C. Initial Review and Assessment Procedures

1. **Purpose.** DIA will conduct an initial review of all Reports and Complaints. This initial review is to assess whether a Complaint or Report describes in sufficient detail the conduct that is the basis of the Complaint, whether the alleged conduct (if true) implicates this Policy, and whether a formal investigation is warranted.
 2. **Intake Review.** DIA will conduct an intake review, which may include interviews to gather more information regarding the allegation(s). DIA will determine whether the Complaint or Report should be dismissed and referred to an appropriate department for resolution or for dispute resolution. If additional information is needed to evaluate the Complaint or Report, DIA will conduct a due diligence inquiry.
 3. **Due Diligence Inquiry.** A due diligence inquiry is not a formal investigation but includes all appropriate steps to properly and thoroughly evaluate a Complaint or Report. DIA will take appropriate steps to gather sufficient information to determine whether a formal investigation is warranted.
 4. **Potential Outcome/Resolution of Complaints or Reports.** DIA will ultimately determine whether the Complaint or Report should be (i) dismissed due to insufficient evidence or information; (ii) dismissed because the Respondent is not a University faculty, staff, student, student organization, visitor, contractor, University affiliate, or applicant for admission or employment; (iii) dismissed and referred to the appropriate department for informal resolution; (iv) dismissed and referred for dispute resolution; or (v) elevated to a formal investigation. Additionally, if a Complaint or Report is withdrawn, DIA may choose to initiate a due diligence inquiry if the alleged conduct implicates this Policy.
- Complaints and Reports that are dismissed may be re-opened if additional information is later available and it is still within the 180 calendar day limitations period.
5. **Notification of Results.** If DIA determines that a Complaint or Report should be dismissed, DIA will provide a dismissal notice to the Complainant and Respondent (if interviewed during the initial review and/or DIA has reason to believe that Respondent is aware of the Complaint) that includes a brief summary of the Relevant known information and a brief explanation for DIA's determination. DIA will submit the dismissal notice to the appropriate vice president, dean, or designee and departments based on a need-to-know basis.

6. **Appeal of the Initial Review Outcome.** If DIA dismisses a Complaint or Report and determines that it will not proceed with a formal investigation, a Party may appeal to the University's Chief Compliance Officer within 10 business days of receiving Notification. The appeal must be in writing and describe in sufficient detail the basis for the appeal. An appeal may be based upon any of the following:

- A procedural irregularity that affected DIA's determination;
- There is new, relevant evidence that was unavailable at the time of DIA's dismissal that could affect the outcome of the matter; or
- The DIA investigator had a conflict of interest or bias for or against a Party that affected the outcome of the matter.

A disagreement with DIA's determination, without more, is not a sufficient basis for appeal. Appeal requests should be submitted electronically at dia@austin.utexas.edu or via mail or in person at 100 W. Dean Keeton, Suite 4.102, Mail Code D9250. The Chief Compliance Officer will determine within 10 business days whether DIA's decision was in error. If the Chief Compliance Officer upholds DIA's determination, the decision is final. If the Chief Compliance Officer overturns DIA's determination, the Complaint or Report will be sent back to DIA for further investigation.

D. Informal Resolution Procedure

DIA may determine in its discretion whether informal resolution is appropriate and, if so, will refer the Complaint or Report to the appropriate department.

Methods for informal resolution may include, but are not limited to:

- coaching the person on how to directly address a situation which 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 division with the resolution of a real or perceived problem; or
- arranging a documented meeting to discuss the University's requirements for behavior.

The University will document any informal resolution. DIA will retain this documentation and keep it confidential to the extent permitted by law.

E. Option for Dispute Resolution

The University recognizes that in some circumstances, pursuing facilitated dispute resolution in lieu of the formal investigation process is preferable to the Parties involved. When appropriate, the University supports and encourages the benefits available through this alternative method.

Dispute resolution may be an appropriate means of addressing some incidents reported under this Policy. DIA within its discretion, may recommend this alternative to address some incidents reported under this Policy that have not been elevated to a Formal Investigation.

F. Formal Investigation Procedures

1. **Investigation Responsibility.** DIA is responsible for conducting formal investigations of Complaints and Reports involving possible violations of this Policy. DIA will initiate a formal investigation if a Complaint is 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.

Notwithstanding the above, DIA may initiate an investigation at the request of Human Resources representatives, deans, directors, department or unit heads, or vice-presidents, or at DIA's sole discretion when the facts or circumstances warrant such [3]. Additionally, if a Complaint/Report is withdrawn, DIA may choose to initiate a formal investigation if the alleged conduct implicates this Policy.

2. **Delegation in Certain Circumstances.** If a Complaint or Report is directed against an individual who would otherwise play a role in investigating or resolving the Complaint, or there is any other conflict of interest present, the function assigned to that person by these procedures will be delegated to another person, as determined appropriate by the Chief Compliance Officer, in consultation with the Vice President for Legal Affairs.

3. **Notice of Investigation.** If a formal investigation is warranted, DIA will provide the Parties a written Notice of Investigation (NOI). The NOI will include:

- A statement of the allegation(s) to be investigated;
- A statement notifying the Respondent that they have an opportunity to submit a written response to the allegation(s) within seven (7) calendar days of receiving the NOI, unless unusual circumstances warrant additional time;

- A statement advising the Parties that Retaliation is prohibited and that engaging in Retaliation will result in appropriate disciplinary action;
- A statement notifying the Parties that they have a right to an advisor during the investigation process;
- A statement requesting confidentiality by the Parties to preserve the integrity of the investigation;
- A statement regarding the Parties' duty to cooperate;
- Information regarding resources available to the Parties; and
- Contact information for the DIA investigator assigned to the formal investigation.

4. Investigative Process—Gathering of Evidence

- a. **Respondent Statement.** Within seven (7) calendar days of receiving the NOI, the Respondent has an opportunity to submit to DIA a written response to the allegations. DIA may extend this deadline if it determines circumstances warrant it.
- b. **Notice of Meetings.** DIA will notify the Parties and witnesses of the date, time, location, participants, and purpose of any meeting. DIA will also notify them of their right to be accompanied by an advisor.
- c. **Interviews.** During a formal investigation, DIA may interview the Complainant(s), Respondent(s), and persons that have Relevant information related to the Complaint or Report. Parties should submit the name(s) and contact information for any witnesses they would like to be interviewed and a brief explanation of the witness' relevance to the investigation. In most cases, DIA will not interview character witnesses.
- d. **Evidence.** The Parties may present any information or evidence that may be Relevant to the investigation. DIA may also gather Relevant evidence from witnesses or other departments as appropriate.
- e. **Findings.** DIA will use the Preponderance of the Evidence standard to determine if a policy violation has occurred.

5. Investigation Report and Referral

- a. **Preliminary Investigation Report and Access to Evidence.** After completion of the investigative process, DIA will provide the Parties a Preliminary Investigation Report (PIR) and access to Relevant evidence. The PIR will outline each of the allegations that potentially constitutes a violation of this Policy,

provide the timeline of the investigation, and fairly summarize the Relevant evidence, participant statements, responses to questions, and documentary evidence. The PIR will also include a statement of finding of violation or no finding of violation and the related rationale.

DIA will redact student identifiable information and other information that is confidential by law. DIA also reserves the right to redact the names of witnesses for confidentiality and privacy reasons, as well as to mitigate a perceived risk of Retaliation.

DIA will provide a copy of the PIR and access to the Relevant evidence to the appropriate vice president, dean, or designee.

- b. **Opportunity to Respond.** The Parties and their advisors will have ten (10) business days to review, inspect, and submit a written response to the PIR and the Relevant evidence. The written response should include any additional fact(s) or witnesses who may provide Relevant information. DIA will review and consider the responses received from the Parties, if any, and determine whether further investigation is warranted.
- c. **Discipline Decision-maker Review of PIR.** The PIR will be provided to the appropriate discipline decision-maker, who may consult with DIA before the report is finalized regarding the investigation process, evidence collected, and the rationale provided for the determination of a finding or no finding of violation.
- d. **Completed Investigation Report and Referral.** After the Parties have an opportunity to respond to the PIR, DIA will provide a Completed Investigation Report (CIR) and access to the Relevant evidence to the Parties and the appropriate vice president, dean, or assigned designee. Within ten (10) business days of receiving the CIR, the appropriate vice president, dean, or designee should discuss the findings with DIA, and review the record, along with any comments and proposed corrections submitted by the Complainant and Respondent, if necessary.

If there is a finding of violation, the CIR will be provided to the appropriate discipline

decision-makers for disciplinary determinations as follows:

- If the Respondent is a student, it will be referred to the Dean of Students for discipline decision, in accordance with University's student disciplinary procedures;
- If the Respondent is faculty, it will be referred to the Executive Vice President and Provost for discipline decision, in accordance with the University's policies for discipline and termination of faculty; and
- If the Respondent is staff, it will be referred to the Associate Vice President of Human Resources for discipline decision, in accordance with the University's policies for discipline and termination of staff.

The vice president, dean, or designee will inform the Parties, DIA, and the appropriate department head in writing of the decision.

- e. **Privacy.** 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 and other applicable law.

G. Right to Advisor

The Complainant(s) and the Respondent(s) may be accompanied by an advisor, who may be an attorney, to any meeting or interview with DIA. No advisor may examine witnesses or otherwise actively participate in a meeting or interview. An individual may only have one advisor present at a time.

H. Submission of Evidence

During an initial review or formal investigation, the Complainant(s) and the Respondent(s) should provide DIA with all relevant evidence in their care, custody, or control. They should also identify any witnesses that they believe have Relevant information. Any witness list should include a summary of the information the witness can provide regarding the issues raised in the Complaint.

I. Miscellaneous

1. Grievance of a Disciplinary Action

- a. Any employee disciplined pursuant to this Policy, except faculty, teaching assistants, assistant instructors or members of the University of Texas Police Department (each of whom are subject to separate procedures [4]), 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.
- b. If the disciplinary action that is being grieved does not involve termination, demotion, or suspension without pay, the vice president will thoroughly review and finally decide the matter within thirty (30) calendar days of its receipt unless unusual circumstances require more time.
- c. If the disciplinary action that is being grieved involves the termination, demotion or suspension without pay of an employee who is covered by [HOP 5-2420](#) the vice president who is assigned to review the grievance will follow the procedures for appealing such actions contained in that section. Complainants will be required to appear and testify at hearings that may be a part of such proceedings.
- d. Any student disciplined under this Policy has the right to appeal as provided in *General Information Catalog*, Appendix C, Chapter 11- Institutional Rules on Student Services and Activities.

2. Effect on Pending Personnel Actions

The filing of a Report or Complaint under this Policy will not stop or delay any personnel/academic actions including: (1) any evaluation or disciplinary action relating to a person who is not performing up to acceptable standards or who has violated University 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 University employee. Nothing in this

section shall limit the University's ability to take interim action or execute an emergency removal.

3. Relationship of Complaint Process to Outside Agency Time Limits

The filing of a Discrimination or Harassment Complaint does not excuse the Complainant from meeting deadlines set by law or an outside administrative agency.

4. Time Frames

DIA may extend the time frames mentioned in this Policy at its discretion.

5. Documentation and Confidentiality

The University will maintain documents related to Complaints under this Policy as required by law. The Office of the Dean of Students will be responsible for records related to Complaints against students.

DIA will be responsible for records related to Complaints against non-students. 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. The University may release information in the event of a lawsuit, official inquiry, or administrative action.

For Assistance: Questions regarding this policy should be directed to DIA.

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; Title II of the Genetic Information Nondiscrimination Act of 2008; Veterans Readjustment Act of 1974; Executive Order of 11246; Sections 503 and 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; Texas Labor Code, Chapter 21; BOR 21.6; Previous policies: HOP 7.01 and 7.16

[1] Pregnancy discrimination involves treating a person

unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

[2] See Section 13-204 of the Institutional Rules on Student Services and Activities (Appendix C to the *General Information Catalog*) for further information concerning harassment; and Sec. 11-701(b) for information concerning enhanced student penalties for offenses motivated by race, color, or national origin.

[3] The president or designee who is specifically designated by the president for this purpose may authorize an independent investigation into matters that fall under this Policy. In these instances, the investigators may be asked to perform any task related to an investigation under this Policy and, if so directed, may Report directly to the president and/or the designee.

[4] Complaints of full-time faculty, including professional librarians with academic titles, 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 Office of the Executive Vice President and Provost for handling pursuant to Rule 31008 of the Rules and Regulations of the Board of Regents of The University of Texas System.

VIII. Resources

A. Behavior Concerns Advice Line (BCAL)

(512) 232-5050

Allows members of the University community to discuss their concerns about an individual's behavior (available 24-hours a day)

<https://bcal.utexas.edu/>

B. Counseling and Mental Health Center

(512) 471-3515

24-hour crisis line at (512) 471-CALL (2255)

<https://healthyhorns.utexas.edu/cmhc/>

C. Deputy Title IX Coordinator for Faculty/Staff

Department of Investigation and Adjudication

(512) 471-3701

<https://compliance.utexas.edu/programs/dia>

D. Deputy Title IX Coordinator for Students

Office of the Dean of Students
(512) 471-5017
<http://titleix.utexas.edu/>

E. Human Resources

(512) 471-4772
hrsc@austin.utexas.edu
<http://hr.utexas.edu>

F. University Ombuds

For students and staff: (512) 471-3825
For Faculty: (512) 232-1889
<https://ombuds.utexas.edu/staff>
Provides a neutral, informal, and independent space for information about University resources and processes for students, staff and faculty

G. Disability and Access

(512) 471-6259
access@austin.utexas.edu
[https://disability.utexas.edu/](https://disability.utexas.edu)

H. Student Outreach and Support in the Office of the Dean of Students

(512) 471-5017
Provides referrals within the University and in the Austin area when necessary
<https://deanofstudents.utexas.edu/sos/index.php>

I. University Risk and Compliance Services

English: 1-877-507-7321 Español: 1-800-216-1288
compliance@austin.utexas.edu
<https://compliance.utexas.edu/compliance-and-ethics-hotline>

J. University Health Services

Appointments: (512) 471- 4955
24-hour Nurse Advice Line: (512) 475-6877
Longhorn Wellness Center: (512) 475-8252
<http://healthyhorns.utexas.edu>

K. University of Texas Police Department

Emergencies: 911
Non-emergencies: (512) 471-4441, enter "9"
<https://police.utexas.edu/>

L. University Title IX Coordinator

University Risk and Compliance Services
(512) 471-0419
titleix@austin.utexas.edu
<http://titleix.utexas.edu/>

IX. Frequently Asked Questions

[HOP 3-3020 FAQ's \(.doc\)](#)

X. Related Information

Students:

Institutional Rules on Student Services and Activities, [Appendix C, Chapter 11](#) (Student Conduct and Academic Integrity)

Institutional Rules on Student Services and Activities, [Appendix C, Chapter 13](#) (Speech, Expression, and Assembly)

Institutional Rules on Student Services and Activities, [Appendix D](#) (Policy on Sex Discrimination, Sexual Harassment, Sexual Assault, Sexual Misconduct, Interpersonal Violence, and Stalking)

Institutional Rules on Student Services and Activities, [Appendix I](#) (Nondiscrimination Policy)

Handbook of Operating Procedure [HOP 8-1010](#) (Prohibition of Campus Violence)

University Faculty and Staff:

Prohibition of Sexual Assault, Interpersonal Violence, Stalking, Sexual Harassment, and Sex Discrimination ([HOP 3-3031](#))

Policies and Procedures for Discipline and Dismissal of Employees ([HOP 5-2420](#))

XI. History

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