

Nondiscrimination, Anti-Harassment and Equal Opportunity

Policy Number: 183

Subject: Nondiscrimination, anti-harassment, other than sexual harassment as defined under Title IX (see [HOOP 59, Prohibition of Sexual Harassment & Sexual Misconduct](#)), and equal educational and employment opportunity

Scope: Members of the University community including administrators, faculty, staff, students, residents, postdoctoral research fellows, clinic fellows, volunteers (including faculty appointed without salary), and third parties within the University's control (visitors, contractors, vendors, consultants, observers, applicants for employment or admission and visiting students). When the respondent is an employee and certain designated conditions are not met under [HOOP 59, Prohibition of Sexual Harassment & Sexual Misconduct](#), allegations of sexual misconduct will be handled in accordance with this policy, HOOP 183. All sexual misconduct allegations where the respondent is a student will be handled in accordance with [HOOP 59](#).

Date Reviewed: June 2021

Responsible Office: Diversity & Equal Opportunity
Responsible Executive: Associate Vice President of Diversity & Equal Opportunity

I. POLICY AND GENERAL STATEMENT

The University of Texas Health Science Center at Houston ("University") is committed to providing a working and learning environment free from discrimination and harassment. The University prohibits discrimination and/or harassment by any member of the University community on the basis of race, color, religion, sex (including pregnancy), gender, sexual orientation, national origin, age, disability, genetic information, gender identity or expression, veteran status or any other basis prohibited by law. No person shall be excluded from participation in, denied the benefits of, or be subject to discrimination under any program or activity sponsored or conducted by the University or any of its component entities on any basis prohibited by applicable law or University policy.

To help achieve an environment free from prohibited discrimination and harassment, the University provides anyone who believes they have been subjected to discrimination or harassment a complaint process to address their concerns.

Individuals who engage in conduct that violates this policy are subject to disciplinary action up to and including termination and/or dismissal.

II. DEFINITIONS

Discrimination: Discrimination, including harassment, is defined as conduct directed at a specific individual or a group of individuals that subjects the individual or group to treatment that materially and adversely affects their employment or education or their participation in or receipt of the benefits of any University program or activity because of race, color, religion, sex (including pregnancy), gender, sexual orientation, gender identity or expression, national origin, age, disability, genetic information or veteran status or any other basis prohibited by law or University policy.

Harassment: Harassment, as a form of discrimination, is defined as unwelcome conduct based upon race, color, religion, sex (including pregnancy), gender, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, veteran status, or any other basis prohibited by law or University policy when such conduct is: 1) severe, pervasive, or persistent enough to create an educational or work environment that a reasonable person would consider intimidating, hostile, or abusive, and 2) materially interferes with an individual's or group's academic or work performance or their ability to participate or benefit from the services, activities, or privileges of any University program or activity. Constitutionally protected expression is not considered harassment under this policy. Examples of harassment include but are not limited to:

- Verbal conduct such as epithets, derogatory comments, or slurs.
- Visual conduct such as derogatory writings, text messages, emails, computer screen displays, posters, photography, cartoons, drawings or gestures.

Sexual harassment is defined and addressed in [HOOP 59, Prohibition of Sexual Harassment & Sexual Misconduct](#).

Other trainees: Postdoctoral research fellows, clinical fellows, and visiting students participating in a University educational or training activity.

Veteran Categories:

- A [disabled veteran](#) is a veteran of the U.S. military, ground, naval, or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs, or one who was discharged or released from active duty because of a service-connected disability.
- An [Armed Forces service medal veteran](#) is a veteran who, while serving on active duty in the U.S. military ground, naval, or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).
- A [recently separated veteran](#) is any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service..
- [Active duty wartime or campaign badge veteran](#) is a veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, under the laws administered by the Department of Defense.

III. PROCEDURE

A. Equal Employment Opportunity

The University's equal employment opportunity policy applies to all employment decisions, including those affecting hiring; promotion, demotion or transfer; recruitment; advertisement of vacancies; layoff and termination; compensation and benefits; performance appraisals; and selection for training. Moreover, it extends to the maintenance of affirmative action programs for

minorities, women, disabled persons, and veterans, as required by law. A full description of the University's affirmative action program is available to any employee or applicant for employment for inspection upon written request by emailing CALL@uth.tmc.edu.

All advertising copy generated by the University for recruitment purposes should include the following statement: "UTHealth is committed to providing equal opportunity in all employment-related activities without regard to race, color, religion, sex (including pregnancy), gender, sexual orientation, national origin, age, disability, genetic information, gender identity or expression, veteran status or any other basis prohibited by law or University policy. Reasonable accommodation, based on disability or religious observances, will be considered in accordance with applicable law and UTHealth policy. The University maintains affirmative action programs with respect to women, minorities, individuals with disabilities, and eligible veterans in accordance with applicable law."

If the above statement cannot be included in its entirety, for instance, due to space constraints, the following minimum language must be included in all advertising copy generated by the University for recruitment purposes: "EOE, including disability and vets."

B. Veteran's Employment Preference

An individual who qualifies for a veteran's employment preference under Texas law (including a veteran, a veteran with a disability, a veteran's surviving spouse who has not remarried or an orphan of a veteran if the veteran was killed while on active duty) will be accorded a preference for employment over other applicants for the same position who do not have greater qualifications.

Individuals entitled to a veteran's employment preference under Texas law who choose to grieve a decision of the University related to hiring or to retention of the individual in a workforce reduction must file the grievance with the President through Diversity & Equal Opportunity. The President will respond to the grievance within 15 business days of receipt.

C. Reporting Discrimination and/or Harassment

Anyone who believes that he or she has been subject to discrimination or harassment may file a complaint. Any member of the University community who gains knowledge of an act of discrimination and/or harassment must promptly report the incident to Diversity & Equal Opportunity. Reports received by other offices of the University must be forwarded to Diversity & Equal Opportunity for handling. Even if no formal complaint is received, Diversity & Equal Opportunity will contact the parties involved for additional information and will investigate to the extent possible. For complaints involving sexual misconduct, including sexual harassment, refer to HOOP 59, Prohibition of Sexual Harassment & Sexual Misconduct.

Any complaint must be made to Diversity & Equal Opportunity as soon as possible after the alleged incident. Reports made in an untimely manner may limit the University's ability to respond.

D. Administrative Closure

In cases reported without a formal complaint, the Associate Vice President of Diversity & Equal Opportunity may administratively close a matter and determine not to initiate review of concerns (1) if the University does not have policy jurisdiction over the respondent or the complainant; (2) if the facts alleged, even if true, do not constitute prohibited conduct under this policy; or (3) any other specific circumstances that would prevent effective review and/or resolution of the concerns. Involved parties may or may not receive notice of administrative closure depending on the circumstances.

E. Informal Resolution

Prior to the initiation of a formal investigation, Diversity & Equal Opportunity may determine that the nature of the allegations is such that the matter can be resolved by agreement on an informal basis. In such cases, Diversity & Equal Opportunity may recommend informal resolution, subject to the consent of the complainant.

Diversity & Equal Opportunity may consult with other University offices to implement an informal resolution. Methods of informal resolution may include, but are not limited to: coaching the person on how to address a situation which is causing a problem; 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 counseling and training the involved individuals regarding the requirements of this policy. Diversity & Equal Opportunity shall retain documentation of any informal resolution.

F. Formal Resolution

To initiate formal resolution, complainants must submit their complaint in writing to Diversity & Equal Opportunity as soon as possible after the alleged incident(s) occurred.

Under most circumstances, Diversity & Equal Opportunity will either dismiss the complaint or will begin an investigation of the complaint within 14 calendar days of receipt of a formal complaint. If the facts alleged in the complaint, even if taken as true, do not constitute discrimination or harassment; the complaint fails to allege any facts that suggest discrimination or harassment

occurred; the appropriate resolution or remedy has already been achieved, or has been offered and rejected; or the complaint cannot be investigated because relevant parties and witnesses are no longer at the University or otherwise available, Diversity & Equal Opportunity will dismiss the complaint.

If a complaint is dismissed, Diversity & Equal Opportunity will notify the complainant in writing identifying the reason and informing the complainant that, no later than 14 calendar days after the notification, he or she may appeal the dismissal decision to the Senior Executive Vice President, Chief Operating Officer ("COO") or designee. The written appeal must explain why the decision to dismiss the complaint was in error. Under most circumstances, the COO will respond no later than 14 calendar days after receipt of the appeal, and the COO decision is final. If the decision to dismiss is overturned, the complaint will be returned to Diversity & Equal Opportunity for investigation.

G. Investigating the Complaint

If it is determined that an investigation is warranted, the respondent shall be provided written notice of the complaint and a summary of the allegations. The complainant and respondent may present to Diversity & Equal Opportunity any documentation or information believed to be relevant to the complaint. The parties may have an advisor of their choice attend, but advisors are not permitted to actively participate in any related interview, meeting, or proceeding in the investigative process. The respondent will be provided an opportunity to respond in writing to the allegations presented by the complainant and additional allegations, if any, that come forward during the course of the investigation. The respondent may submit a written response no later than 14 calendar days from the date the allegations are sent.

Any person believed to have information relevant to the complaint may be interviewed. Such interviews will be appropriately documented. University community members have an affirmative duty to participate in such investigations.

The investigation will be concluded in as timely a manner as possible. In investigations exceeding 90 business days, a justification for the delay will be presented to and reviewed by the Associate Vice President of Diversity & Equal Opportunity.

Upon completion of the investigation, Diversity & Equal Opportunity will issue a written report to the appropriate administrative authority. Both parties will have the opportunity to review the report and provide written comments within 7 calendar days before the report is sent to the appropriate administrative authority. The administrative authority will be provided both the Diversity & Equal Opportunity report and the respondent's and complainant's comments, if any. If the respondent is a faculty member, academic administrative and professional employee, or student, the report will be issued to the Executive Vice President & Chief Academic Officer. Otherwise, the report will be issued to the COO. The report shall include a summary of the investigation and the facts discovered during the investigation. Generally, within no later than 14 calendar days after receipt of the report, the appropriate administrative authority will (1) request further investigation into the complaint; (2) issue a determination that the results of the completed investigation are inconclusive or that there is not a preponderance of the evidence to support the allegations; or (3) issue a determination that this policy was violated. The appropriate administrative authority shall inform the complainant and respondent in writing of their decision.

If the appropriate administrative authority determines this policy was violated, he or she will notify the Dean or administrative equivalent of the organizational unit where the respondent is located, who, under most circumstances, will initiate appropriate action no later than 14 calendar days after such notification. Disciplinary action against University community members will be implemented in accordance with applicable policies and procedures.

As a result of the investigation, issues and/or conduct may be discovered that do not rise to the level of a policy violation but nevertheless require remedial action by the appropriate administrative authority. Any remedial measures taken in this context will be documented by the appropriate administrative authority and forwarded to Diversity & Equal Opportunity for retention.

H. Retaliation

University employees and students who retaliate in any way against an individual who has brought a request for an informal resolution or a complaint pursuant to this policy or against an individual who has participated in an investigation of a complaint (whether informal or formal) are subject to disciplinary action up to and including termination or dismissal. Refer to [HOOP Policy 108 Protection from Retaliation](#).

I. Required Employee Training

Employees should receive training regarding the University's discrimination and retaliation policies within 30 calendar days of their hire date and shall receive supplemental training at least every two years thereafter. All employees who complete training are required to verify their completion of the training.

J. Time Limits and Exceptions

Time limits may be extended for good cause by the Associate Vice President of Diversity & Equal Opportunity.

For purposes of this policy, “day one” will be the next calendar day. Calculation of calendar days for purposes of all sections of this policy does not include holidays or “skeleton crew” days indicated on the published University calendar.

K. False Statements

Any person who recklessly or knowingly and intentionally files a false complaint under this policy or makes false statements in the course of the investigation is subject to disciplinary action up to and including termination or dismissal.

L. Dissemination of Policy

This policy will be made available to all members of the University community. Periodic notices sent to students, residents, fellows and other trainees, and employees about this policy will include information about the complaint procedure and will refer individuals to the designated offices for additional information.

IV. CONTACTS

Diversity & Equal Opportunity

713-500-CALL (2255)

call@uth.tmc.edu

<https://www.uth.edu/hr/department/equal-opportunity/>
