Freedom From Harassment and Discrimination: Other Protected Characteristics Policy

Statement of Non-Discrimination

Harassment and discrimination are illegal under federal and state statutes, including but not limited to, Title VII of the Civil Rights Act of 1964, the Texas Commission on Human Rights Act, and is prohibited at Texas Wesleyan University (the "University").

Discrimination

The University prohibits discrimination, including harassment, against any individual(s) on the basis of race, color, religion, national origin, age, veteran status, disability, sex, sexual orientation, gender, to include gender identity and gender expression, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of University policy.

The University is committed to providing an environment of academic study and employment free from harassment or discrimination to all segments of its community, that is, its faculty, staff, students (current or former), guests and vendors. It is the responsibility of members of the University community to conduct themselves so that their words or actions cannot be reasonably perceived as harassing, discriminatory, sexually coercive, abusive or exploitive, or as interfering with any other individual's ability to study or work productively at the University.

Harassment

Prohibited harassment is defined as physical, verbal, or nonverbal conduct based on any individual's race, color, religion, national origin, age, veteran status, disability, sex, sexual orientation, gender, to include gender identity and gender expression, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the individual's ability to study or work productively;
2. Creates an intimidating, threatening, hostile, or offensive environment; or
3. Otherwise adversely affects an individual's performance, environment, or employment or scholastic opportunities.

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.

Retaliation

Furthermore, the University strictly forbids retaliation by any member of the University community against anyone who brings a charge of discrimination or any other form of harassment. Once the University has knowledge of conduct or behavior that could be reasonably construed as harassment or discrimination, action under this policy must be initiated and followed to its conclusion.

Examples of retaliation may include wrongful termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Any member of the University community who intentionally makes a false claim, offers false statements, or refuses to cooperate with a University investigation regarding harassment or discrimination is subject to appropriate discipline.

Any violation of any aspect of this policy toward any faculty member, staff member, student, guest or vendor will subject the violating faculty member, staff member, student, guest or vendor to appropriate disciplinary action or sanction, which may include: dismissal from employment for faculty and staff, cancellation of student status for students, and loss of business or other campus privileges for vendors and guests.

Timing of Complaint

Any complaint, either oral or written, must be communicated to the appropriate University representative immediately as indicated by this policy, but no later than 60 calendar days from the most recent occurrence of the alleged behavior.

Confidentiality of Proceedings and Records

All persons involved in the investigation, adjudication or resolution of complaints shall preserve the confidentiality of information relating to such investigation, adjudication or resolution, to the extent possible. Such confidential information shall only be disclosed on a need-to-know basis to those in the University or their designees and legal representatives (including outside counsel) authorized to participate in the investigation, adjudication or resolution, or to those outside the University, as required by court order or otherwise required by law. The University cannot guarantee confidentiality.

Proceedings

Once the complaint has been received, the appropriate authority, as defined by this policy, shall promptly initiate the specific complaint and investigation procedure applicable for the accused individual, according to this or other appropriate University policy.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances

surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

Complaint Procedures in General

The University recognizes the need for each of the three segments of the University community (faculty, staff and students), with their unique missions and roles, to have their own respective complaint procedures. Although this is a comprehensive policy for the University community, specific complaint procedures are listed for each segment, depending upon which member of the University community is being charged with harassment or discrimination. Complaints against vendors and guests should follow the complaint procedures for charges against staff employees.

Complaints should be delivered in writing to the appropriate person as specified in this policy. However, verbal complaints may be accepted. Complaints must provide the name of the person alleged to have harassed or discriminated against the complainant, specific details of the alleged conduct or act, a list of witnesses (if any), a desired remedy, and any other pertinent details.

Who May Use the Procedure

The complaint procedure described herein shall be available to any faculty member, staff member, student, vendor or guest who believes that he or she has been harassed or discriminated against by a faculty member, staff member, student, vendor or guest in the context of the accused individual's performance of University-related functions.

If appropriate, the University shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation

Lodging of Complaint Involving a Faculty Member

Any complaint of harassment or discrimination against a faculty member shall be reported immediately to the Provost or than a Title IX related complaint.

Investigation

The Provost shall promptly assign the complaint to two (2) appropriate administrators of at least the senior staff level or someone who directly reports to the senior staff. These administrators shall investigate the complaint, interview the parties and others in possession of pertinent information, review relevant documentation and evidence, reach an initial determination of whether harassment or discrimination has occurred and, depending upon its severity, seek to resolve the matter informally.

If the administrators believe that immediate harm to either party or the integrity of the investigation is threatened by the continued performance of the accused faculty member's customary duties or responsibilities, the administrators may recommend to

the Provost that the accused faculty member be suspended with pay, or reassigned pending the completion of the investigation.

The investigation shall be completed within 60 calendar days of the receipt of the complaint by the Provost, unless notice of delay is given. Within this time frame, the administrators shall prepare a written report of the investigation, which shall include their initial determination.

Informal Resolution

Upon completion of the investigation and depending upon its severity, administrators are authorized to resolve the matter to the satisfaction of the University, the complaining party and the accused faculty member. If a resolution satisfactory to the University and both parties is reached through the efforts of the administrators, a written statement, a copy of which shall be attached to the administrators' report, shall indicate the agreement reached by the parties and shall be signed and dated by each party and by the administrators. At that time, all action contemplated under the agreement shall be taken and the investigation shall be closed.

Determination of Merits of Complaint

In arriving at a determination of the existence of harassment or discrimination, the administrators shall consider the evidence as a whole, the totality of the circumstances, and the context in which the alleged events occurred. An investigation report will be written on the complaint. The determination of the existence of harassment or discrimination shall be made from the facts on a case-by-case basis.

Determination

Upon completion of the investigation, the Office of Human Resources or the administrators are authorized to take the following actions:

a. Determine that the claim of harassment or discrimination was not substantiated based on a preponderance of the evidence, and provide written notice of such determination to the faculty member, guest, or vendor, and the complainant; or

b. Determine that the claim of harassment or discrimination was substantiated based on a preponderance of the evidence, and issue appropriate disciplinary action against the employee, guest or vendor with notification to the complainant that appropriate action is being taken against the employee, guest or vendor, without providing details of the nature of such action.

Appeals

Either party has the right to appeal the determination in writing, within fifteen (15) business days of the date of the notice of dismissal, to the Provost. If no appeal is filed within fifteen business days (15) period, the matter is automatically closed. If a determination of no harassment or discrimination is appealed, the Provost shall make a

written recommendation to the President within seven (7) business days. The President shall notify all parties of his or her decision in writing within seven (7) business days after receipt of the Provost's recommendation. The President's decision is final.

Revocation of Tenure and Termination as Possible Sanction for Harassment or Discrimination

If the administrators determine at any stage in the investigation that the evidence of harassment or discrimination is sufficiently clear and severe, and the Provost concurs in writing, so as to warrant the immediate commencement of proceedings to revoke tenure and/or terminate a tenured faculty member, the case shall be removed from the complaint procedures contained herein and resolved in accordance with the revocation of tenure and termination policies and procedures for faculty members. The faculty member shall be suspended, with pay, pending formal resolution of the matter.

Lodging of Complaint Involving a Staff Employee, Guests or Vendor

Persons who have complaints alleging harassment or discrimination against a staff employee, guest or vendor are encouraged to raise them either orally or in writing to the Associate Vice President of Human Resources, Director of Purchasing, a supervisor, the department head, Dean, Divisional Vice President or the Provost. It is recommended, although not required, that the complainant follow the "chain of command." For example, staff employees are encouraged to lodge complaints within their respective work area. The person receiving the complaint shall communicate it promptly to the Associate Vice President of Human Resources. The Office of Human Resources shall be responsible for investigating complaints. In the event of a conflict of interest involving the Office of Human Resources, the Associate Vice President of Human Resources shall assign the complaint to a Divisional Vice President for investigation.

Nothing in this policy shall require a complainant to file a complaint with the individual who is accused of harassment or discrimination.

Investigation

Upon receipt of a complaint of harassment or discrimination against a staff employee, guest or vendor, the Office of Human Resources shall investigate the complaint itself or assign it to two (2) administrators, each of whom must be either a Vice President, Associate Vice President or someone who directly reports to a Vice President, Associate Vice President and who is employed at least at the director level.

The Office of Human Resources or the assigned administrators shall investigate the complaint, interview the parties and witnesses involved and gather all pertinent information. The investigation shall be completed within 60 calendar days of receipt of the complaint, unless notice of delay is given. A written report shall be prepared, unless advised otherwise by University legal counsel.

The Office of Human Resources or the administrators shall promptly inform the accused employee, guest or vendor of the complaint and shall, during the investigation, obtain the employee's, guest's or vendor's version of the facts. The Office of Human Resources

or the administrators, in arriving at a determination of whether harassment or discrimination has occurred, shall review the information as a whole in the totality of the circumstances and in the context in which the alleged incident or incidents occurred. The determination shall be made from the facts on a case-by-case basis. An investigation report will be written on the complaint.

Suspension or Reassignment

At any stage in the investigation, an accused employee may be suspended with pay or reassigned. If the complaint is against a guest or vendor, the guest may have his or her privileges as a guest suspended, or the vendor may have its business dealings with the University suspended, or the guest or vendor may be prohibited from having contact with faculty, staff, students, guests or vendors of the University until the complaint is resolved.

Informal Resolution

Upon completion of the investigation and depending upon its severity, the administrators are authorized to resolve the matter to the satisfaction of the University, the complaining party and the accused faculty member. If a resolution satisfactory to the University and both parties is reached through the efforts of the administrators, a written statement, a copy of which shall be attached to the administrators' report, shall indicate the agreement reached by the parties and shall be signed and dated by each party and by the administrators. At that time, all action contemplated under the agreement shall be taken and the investigation shall be closed.

Determination of Merits of Complaint

In arriving at a determination of the existence of harassment or discrimination, the administrators shall consider the evidence as a whole, the totality of the circumstances, and the context in which the alleged events occurred. An investigation report will be written on the complaint. The determination of the existence of harassment or discrimination shall be made from the facts on a case-by-case basis.

Determination

Upon completion of the investigation, the Office of Human Resources or the administrators are authorized to take the following actions:

a. Determine that the claim of harassment or discrimination was not substantiated based on a preponderance of the evidence, and provide written notice of such determination to the employee, guest or vendor, and the complainant; or

b. Determine that the claim of harassment or discrimination was substantiated based on a preponderance of the evidence, and issue appropriate disciplinary action against the employee, guest or vendor with notification to the

complainant that appropriate action is being taken against the employee, guest or vendor, without providing details of the nature of such action.

Appeals

Either party may appeal the determination by the Office of Human Resources or the administrators to the Vice President for Finance and Administration in writing within fifteen (15) business days of receipt of notification of the determination. If no appeal is filed within fifteen business days (15) period, the matter is automatically closed. If a determination of no harassment or discrimination is appealed, the Vice President for Finance and Administration shall make a written recommendation to the President within seven (7) business days. The President shall notify all parties of his or her decision in writing within seven (7) business days after receipt of the Vice President for Finance and Administration recommendation. The President's decision is final.

Employment-at-will

The utilization of these procedures shall not affect the employment-at-will nature of the employment relationship.

Lodging of Complaint Involving a Student

Persons who have complaints alleging harassment or discrimination against students are encouraged to raise them either orally or in writing to the Vice President of Student Affairs/Dean of Students, the Provost, a Dean, or the Office of Human Resources. The person receiving the complaint shall communicate it promptly to the Vice President of Student Affairs/Dean of Students in his or her absence.

Investigation

Upon receipt of a complaint of harassment or discrimination against a student, the Vice President of Student Affairs/Dean of Students shall investigate or assign the complaint to two (2) administrators, each of whom must be either a Vice President, Associate Vice President or someone who directly reports to a Vice President or Associate Vice President and who is employed at least at the director level. The Office of Human Resources shall serve in an advisory capacity for complaints involving students. The above-mentioned staff or the assigned administrators shall investigate the complaint, interview the parties and witnesses involved and gather all pertinent information. The investigation shall be completed within 60 calendar days of receipt of the complaint, unless notice of delay is given. A written report shall be prepared.

Suspension

At any stage in the investigation, the accused student may be suspended until the matter is resolved. In the event a student is suspended and subsequently exonerated, the student shall be allowed to make-up missed assignments or tests, if possible. The

University's Drop/Withdrawal policy shall be used for determining tuition and fee charges and financial aid in the event the student is suspended mid-semester. The accused student shall be promptly notified of the complaint and shall, during the investigation, provide his or her version of the facts.

In arriving at a determination of whether harassment or discrimination has occurred, the information as a whole in the totality of the circumstances and in the context in which the alleged incident or incidents occurred shall be reviewed. The determination will be made from the facts on a case-by-case basis. An investigation report will be written on the complaint.

Informal Resolution

Upon completion of the investigation and depending upon its severity, the administrators are authorized to resolve the matter to the satisfaction of the University, the complaining party and the accused faculty member. If a resolution satisfactory to the University and both parties is reached through the efforts of the administrators, a written statement, a copy of which shall be attached to the administrators' report, shall indicate the agreement reached by the parties and shall be signed and dated by each party and by the administrators. At that time, all action contemplated under the agreement shall be taken and the investigation shall be closed.

Determination of Merits of Complaint

In arriving at a determination of the existence of harassment or discrimination, the administrators shall consider the evidence as a whole, the totality of the circumstances, and the context in which the alleged events occurred. An investigation report will be written on the complaint. The determination of the existence of harassment or discrimination shall be made from the facts on a case-by-case basis.

Determination

Upon completion of the investigation, the Vice President of Student Affairs/Dean of Students or the administrators are authorized to take the following or actions:

a. Determine that the claim of harassment or discrimination was not substantiated based on a preponderance of the evidence, and provide prompt written notice of such determination to the student and the complainant; or

b. Determine that the claim of harassment or discrimination was substantiated based on a preponderance of the evidence, and issue appropriate disciplinary action against the student with notification to the complainant that appropriate action is being taken against the student, without providing details of the nature of such action. If the disciplinary action against the student is expulsion, the President must first be notified and approve the expulsion.

Appeals

Either party may appeal the determination by the investigating administrators in writing within fifteen (15) business days of receipt of notification of the determination to the Vice President for Student Affairs/Dean of Students or, in the event the Vice President for Students Affairs/Dean of Students made the determination, the University President. If the Vice President for Student Affairs/Dean of Students and/or the University President does not act to change the determination within seven (7) business days of receiving the appeal, the determination shall become final. The decision made upon appeal to the Vice President for Student Affairs/Dean of Students and/or the University President is final.

No Contractual Rights

This policy does not create contractual rights of any kind for students, faculty, staff, guests or vendors. This policy may be amended, amplified or withdrawn by the University, in its sole discretion, at any time.

Campus Hotline

The University provides a third-party campus hotline that all University constituents may use to report concerns. The third-party provider may be reached by calling 866-943-5787.