

Texas Wesleyan University
Title IX Policy

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txwes.edu/titleix



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Title IX Policy

Scope of the Policy

Texas Wesleyan University complies with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in the University's educational programs or activities and retaliation; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA); Title VII of the Civil Rights Act of 1964 (Title VII); the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and other applicable laws.

Furthermore, the University strictly forbids retaliation by any member of the University community against anyone who brings a charge of sexual harassment or sexual discrimination.

Texas Wesleyan University believes all members our campus community should live, work, and experience an environment free from harassment and discrimination on the basis of sex. The Title IX Coordinator is responsible for administering and upholding this Title IX policy.

Intent of the Policy

The Title IX policy, in accordance with the final regulations from the federal government that specify how recipients of Federal financial assistance covered by Title IX, must respond to allegations of sexual harassment consistent with Title IX's prohibition against sex discrimination.

Texas Wesleyan University (hereby referred to as "the University") does not discriminate on the basis of sex, as well as acts in accordance with the Clery Act and the Violence Against Women Act (VAWA). The University is required to address sexual harassment as a form of sex discrimination in education programs or activities. Texas Wesleyan University will respond promptly and supportively to all individuals, including persons alleged to be victimized by sexual harassment and the persons alleged to have victimized another person, resolve allegations of sexual harassment promptly and accurately under a fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment, as well as effectively implement remedies for victims and sanctions for those found responsible for violating this policy.

Once the University has [Actual Knowledge](#) of sexual harassment in one of its education programs or activities, the University must respond promptly in a manner that is not deliberately indifferent. The University is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

Behaviors

The University is committed to providing an environment free from sexual harassment or sexual discrimination to all segments of its community; that is, its students, employees, vendors, and guests. 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, work, or experience our campus effectively.

The behaviors included in this policy are referred to as Prohibited Conduct. Prohibited Conduct under this policy includes:

Discrimination
Sexual Harassment
Sexual Assault
Dating Violence
Domestic Violence
Stalking
Retaliation for reporting any of the above behaviors

Based on the information available at the time of the report, the Title IX Coordinator will make the determination as to whether the case is Title IX or Non-Title IX Sexual Misconduct. In cases that could be defined as Non-Title IX Sexual Misconduct i.e. sexual exploitation, cyberstalking, do not meet the threshold and/or jurisdiction for Title IX as outlined in this policy, the University may address the behavior using an alternate process, i.e. Code of Student Conduct or Employee Handbook.

For more information for these kinds of incidents, please see [Prohibited Conduct](#).

First Amendment

First Amendment concerns differ in educational environments and workplace environments, and the Title IX definition provides First Amendment protections appropriate for educational institutions where students are learning, and employees are teaching. Students, teachers, faculty, and others should enjoy free speech and academic freedom protections, even when speech or expression is offensive.

The exercise of rights protected under the First Amendment does not constitute [retaliation](#).

The University will not restrict applicable rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.

Equitable Treatment

Texas Wesleyan University supports the campus community, including students, employees, vendors, and guests within the University's educational program or activity, to have a safe and respectful environment free from discrimination on the basis of sex.

The purpose of this section is to emphasize the importance of treating Complainants and Respondents equitably in the specific context of Title IX, and for the University to provide remedies to Complainants and avoid punishing Respondents prior to conclusion of a fair process. The University, under this policy's grievance process, will treat Complainants and Respondents equally with only few exceptions for strict equality allowed under the rules from the Department of Education.

The University is responsible for ensuring equal access to education programs and activities and should not place the burden of gathering relevant evidence, or meeting a burden of proof, on either party. Moreover, as it relates to consent, the burden to prove consent or lack thereof does not fall on to the Complainant or the Respondent.

Exceptions to strict equality where equitable treatment of the parties requires recognizing that a Complainant's interests differ from those of a Respondent with respect to the purpose of the grievance process. This is intended to provide both parties with a fair, truth-seeking process that reasonably considers differences between a party's status as Complainant as compared to one's status as Respondent. Thus, with respect to remedies and disciplinary sanctions, strictly equal treatment of the

parties is not feasible and, to treat the parties equitably, a Complainant must be provided with remedies where the outcome shows the Complainant to have been victimized of the Prohibited Conduct named within this policy; similarly, a Respondent must be sanctioned only after a fair process has determined the Respondent to be responsible under the grievance process outlined in this policy.

Presumption of Non-Responsibility

Texas Wesleyan University, in accordance with regulations from the Department of Education, has in place the presumption that the Respondent(s) named in a Title IX grievance process is (are) not responsible for the violation until a fair grievance process, outlined in this policy, is followed and completed.

The presumption of non-responsibility does not provide any advantage to the Respondent over the Complainant and does not imply that a Complainant has lied or made a false report. This presumption only helps ensure that a Respondent is not treated as responsible prior to the University's Title IX grievance process. This presumption does not allow or require the University to presume that a Respondent is truthful or credible. The University is prohibited from drawing any inferences about credibility based on status as a Complainant or Respondent. Credibility is determined as a matter of course of the grievance process.

Prompt Assessment of Complaints

The University is committed to promptly investigating complaints of sexual harassment made by any individual, regardless of affiliation with the University. The Title IX Coordinator is responsible for executing prompt delivery of options to the Complainant regarding supportive measures, options to report, information on the Title IX grievance process, etc., as well as the decision to not investigate if the Complainant does not wish to file a formal complaint.

Access to Policy

The Title IX policy, including the Title IX Coordinator's contact information, will be available on the Texas Wesleyan University website, within each University handbook or catalog for all admitted and current students, as well as current and potential employees to access. This also includes guests (i.e., students as part of Early College High School programs, participants in summer camps and conferences) to our campus.

To access the Title IX policy, please visit txwes.edu/titleix.

Temporal Scope of Policy

This policy will be in effect on August 14, 2020, per the regulations from the Department of Education. Any reports made before the above-mentioned date will use the Unified Harassment and Discrimination policy. Any reports made on or after the date of August 14, 2020, will use this Title IX policy. If a report is made with the University after the effective date of this policy and the alleged incident occurred before the effective date, the University is allowed to pursue another University grievance process.

Related Policies

In addition to this policy, the conduct of students, employees, and other Texas Wesleyan University community members may be governed by other University policies, including but not limited to:

[Family Educational Rights and Privacy Act \(FERPA\)](#)

Clery Act and Campus Security Authorities

[Code of Student Conduct](#)

Amnesty Policy

[Employee Handbook](#)

Faculty Handbook

Minors on Campus

(Definition/Reporting Procedures/High School Programs)

Inappropriate Relationships

The University prohibits relationships of a dating, intimate or sexual nature between faculty/staff and any student with whom the faculty or staff member has professional responsibility, even if the relationship is consensual. Professional responsibility may include, but is not limited to athletics, committee work, university-sponsored activities or events, and any other direct educational or University employment related control that gives the faculty or staff member authority or power over the student that could subsequently affect the student's academic or work environment and/or success. These types of relationships are strongly discouraged even when there is no direct relationship with authority/power that could be exerted over the student. In addition, faculty members may not teach or take any action that may influence the grade of an immediate family member enrolled at the University. Immediate family members are defined as the spouse, significant other, children (natural, adoptive or step) or any dependent person residing with the faculty member. An exception to this policy may be authorized by the dean of the school in question. Faculty members may request an exception, in-writing, to the dean by outlining the reasons that support the requested exception.

Vendor Contracts

Applicability and Jurisdiction

Texas Wesleyan University, to be in accordance with the rules and regulations from the Department of Education, is required to designate jurisdiction for this policy. This jurisdiction includes physical geography and the designation of parties.

Individuals Covered by this Policy

The Title IX policy applies to all currently enrolled students, employees, contractors, vendors, and guests of the University. For more information, see [Definitions](#).

- Students
- Employees
- Students in dual credit/enrollment programs
- Students in institution-operated K-12 schools

Jurisdiction

This policy applies to conduct that takes place:

- On the campus or Texas Wesleyan University premises, including any building owned or controlled by a student organization officially recognized by the University,
- Locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the harassment occurs;
- In the context of any Texas Wesleyan University-related or sponsored education program or activity that occurs in the United States;
 - An education program or activity includes circumstances over which the University exercises substantial control over both the Respondent and the context in which the harassment occurred, such that the factual circumstances of online harassment must be analyzed to determine if it occurred in an education program or activity; or
- Through the use of Texas Wesleyan University-owned or provided technology resources.

This policy does not apply to conduct that:

- Occurs outside of the United States; or
- Does not rise to the definition of Prohibited Conduct outlined in this policy.
 - If the alleged conduct is determined to be Non-Title IX Sexual Harassment; the Title IX Coordinator will determine the appropriate grievance process.

Allegations reported to the Title IX Coordinator that are deemed to be outside of the University's jurisdiction, the University is required to provide a mandatory dismissal of allegations in a formal complaint about conduct not occurring in the University's education program or activity. Such a dismissal does not preclude action under another provision of the University's Code of Student Conduct, or other University grievance process.

For more information, see [Dismissals](#).

Title IX Coordinator

The Title IX Coordinator is designated by the University to coordinate compliance with Title IX responsibilities. The University's Title IX Coordinator is authorized to institute corrective measures on behalf of the University.

Any individual, including a non-University affiliate, may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, via online report form, by mail, by telephone, or by e-mail, using the contact information listed below, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such reports can be made at any time, including outside of normal business hours.

Chelsea Sepolio, Director for Title IX and ADA Compliance (Title IX Coordinator)

- [Online Report Form](#)
- Email: titleix@txwes.edu
- Office Phone: 817-531-4890
- Mailing Address
 - 1201 Wesleyan St.
 - C/O Dean of Students Office
 - Fort Worth, TX 76105
- Physical Address
 - 3165 E. Rosedale St.
 - Fort Worth, TX 76105
 - Second Floor, Suite 230

Deputy Coordinators for Title IX

Deputy Coordinators for Title IX are resources to the campus community to help navigate the Title IX process. Reporting to a Deputy Coordinator does not satisfy the actual knowledge standard for Texas Wesleyan University.

Name	Title(s)	Contact Information
Deborah Cavitt	Purchasing Director	817-531-4298 Purchasing Office Oneal-Sells Administration Building, Basement
Dr. Angela Dampeer	Associate Vice President for Human Resources	817-531-4403 Human Resources Office Oneal-Sells Administration Building, Basement
Dr. Steven Daniell	Associate Provost of Academic Affairs	817-531-4405 Provost Office Oneal-Sells Administration Building, 1st Floor
Dr. Gary Stout	Associate Vice President for Student Affairs	817-531-6595 Student Affairs Suite Martin Center, 240
Steven Trachier	Associate Athletic Director and Head Women's Basketball Coach	817-531-4874 Athletics Office Sid Richardson Building, First Floor

Texas Wesleyan University reserves the right to utilize internal or external resources to facilitate investigation, adjudication, or other aspects of the Title IX grievance process. This may include, but is not limited to: investigators, advisors, decision-makers, facilitators of an Informal Resolution, or other designated role.

[Assessment for Timely Warnings or Emergency Notifications](#)

This policy applies to the issuance of timely warnings and emergency notifications required by the Clery Act to all faculty, staff, and students.

The Title IX Coordinator will collaborate with Campus Security to follow the University's policy and protocol when issuing a Timely Warning or Emergency Notification at it relates to reports of sexual harassment as defined in this policy.

[Timely Warnings](#)

The University will issue a Timely Warning for any Clery Act crime that occurs within its Clery defined geography that is:

- Reported to campus security authorities or local police agencies; and
- Is considered by the institution to represent a serious or continuing threat to students and employees.

Timely Warnings are not limited to violent crimes or crimes against persons. Timely warnings may be issued for threats to persons or to property. Anyone with information warranting a timely warning should report the circumstances to one or more of the following offices by telephone, email or in person:

- Campus Security, Glick House, 3001 Ave. D (817) 531-4911
- Dean of Students, Nick and Lou Martin University Center, Suite 230 (817) 531-4872

[Decision to Issue a Timely Warning](#)

The decision to issue a Timely Warning will be considered on a case-by-case basis considering the following factors:

- The nature of the crime;
- The continuing danger to the campus community; and,
- The possible risk of compromising law enforcement efforts.

The decision to issue a Timely Warning will be made by the Director of Campus Security. If time permits, the decision will be made in consultation with the Vice President for Student Affairs/Dean of Students and the Vice President for Enrollment, Marketing, and Communications.

[Emergency Notifications](#)

The University is required to immediately notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus or on public property immediately adjacent to the University. This is accomplished through the Texas Wesleyan Alerts System. Texas Wesleyan Alerts is an automated system of sending emergency alerts by email, voice mail, phone calls, and text messages.

The Director of Campus Security will, upon receiving information that meets the criteria of an emergency notification, issue the Emergency Notification. Additionally, the Dean of Students, Human Resources, and Office of Communications have been trained in issuing Emergency Alerts.

The Alerts will go out to all registered students, faculty and staff, by all means they have registered in the Alert System; email (required), voice call, and/or text message. The Office of Communications will also disseminate the alert through the university website in the form of an alert banner and update university social media (Facebook and Twitter.)

Regulations require that all enrolled students and current employees be added to the Texas Wesleyan Alert System. The system provides notification of university-related emergencies via telephone, email and text messaging options. To comply with this mandate, all Texas Wesleyan email addresses have been registered.

If you wish to update your profile to receive the alerts in the form of a text message or telephone call, you can do so by logging into “Ramlink” or by a link located on the “Emergencies” page of the university website at <https://txwes.edu/security/emergency/>.

For those that do not wish to receive emergency notifications from the University, they may choose to unsubscribe. Each fall, all enrolled students and current employees are automatically registered again, which will require them to unsubscribe.

The Director of Campus Security will issue reminders regarding Texas Wesleyan Alerts, at least once per semester, to faculty, staff, and students. Reminders will include the need to update personal contact information. The Office of Human Resources will also request copies of any opt-out forms from the Registrar each semester.

Employee Responsibilities

Reporting

Texas Wesleyan University complies with the Department of Education's regulations as well as Texas state law as it relates to Mandatory Reporting. Under state law, all employees that are designated as Mandatory Reporters are obligated to report allegations of sexual harassment, sexual assault, dating violence, and stalking to the Title IX Coordinator. A Mandatory Reporter's disclosure to the Title IX Coordinator satisfies state law and the Title IX Coordinator being informed initiates the University's actual knowledge.

Participation in the Process

As a member of Texas Wesleyan University, employees are expected to participate in the process in the following ways:

- You must facilitate any accommodations determined by the Title IX Coordinator.
- Supportive measures, Remedies, and/or Sanctions from the Title IX Coordinator are to be granted, as necessary.
- Assist with other requests by the Title IX Coordinator.

Definitions

Actual Knowledge

Notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator or any official of the University who have authority to institute corrective measures on behalf of the University or to any employee of an elementary and secondary school.

At Texas Wesleyan, the Title IX Coordinator (or designated Deputy Coordinator) is the only University employee authorized to institute corrective measures on behalf of the University.

Advisor

An individual who accompanies a Complainant or Respondent during the investigatory process and/or the Title IX Hearing to serve on behalf of the party to allow for cross-examination. This individual can be an attorney, but is not required to be an attorney. This individual cannot be a party or a witness participating in the grievance process.

Except for conducting cross-examination at a Title IX Hearing, the advisor's role is limited to providing support and guidance to their advisee and the advisor may not speak or otherwise represent their advisee throughout the process.

Each principle party is required to have an advisor for the hearing stage of the Title IX grievance process. If a party does not have an advisor, the University will provide an advisor free of charge. The University's pool of advisors are University employees and are trained to serve in this capacity. The party has the right to select an advisor of their choosing from this pool.

If a party has not retained an advisor, or voluntarily selected an advisor from the respective pool, the University is required to assign an advisor. Assigned advisors are not obligated to avoid conflicts of interest and can fulfill the role regardless of the scope of the advisor's other duties as a University employee. Where a party does not take the opportunity to select an advisor of the party's choice, that choice falls to the University.

Appellate Administrator

An individual that is tasked with reviewing and ruling on a determination from the Title IX Hearing. This individual can overturn, uphold, or adjust a determination of responsibility or sanction(s) applied.

Upon receipt of the [Title IX Appeal Form](#), the Appellate Administrator will have seven (7) business days to render a determination and will send notification to the Complainant and the Respondent directly and include the Title IX Coordinator.

Respondent's Designation	Appellate Administrator's Role	Appellate Administrator's Name
Student	Vice President for Student Affairs and Dean of Students	Dennis Hall. Ph.D.
Employee (Faculty)	Provost and Senior Vice President	Hector Quintanilla, Ph.D., CPA
Employee (Staff)	Vice President of Finance and Administration	Donna Nance

Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

The complainant must be participating in or attempting to participate in the education program or activity of the University with which the formal complaint is filed.

Conduct File

A conduct file is for students and includes, but is not limited to, documented incident reports, informational reports, written statements, evidence relevant to the individual or evidence used in a Title IX grievance procedure, FERPA waivers, photo or video documentation, and notes added by the Title IX Coordinator. All items within the conduct file are subject to FERPA.

Conduct files will be maintained by the Title IX Coordinator for seven (7) years. For more information, see [Record Retention](#).

Consent

Words or actions that show an active knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Consent cannot be gained by force, by ignoring or acting without regard to the objectives of another, or by taking advantage of the incapacitation of another, where the individual knows or should have known of such incapacity. Consent is absent when the activity in question exceeds the scope of consent given previously.

Use of alcohol or drugs may impair an individual's capacity to freely consent and may render an individual incapable of giving consent.

- Silence or the absence of resistance alone is not consent.
- Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity.
- A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.
- Continued pressure can be coercive and is also a violation of this policy.
- Consent to some sexual contact cannot be presumed to be consent for other sexual activity.
- A current or previous dating relationship is not sufficient to constitute consent.

According to Chapter 22 of the Texas Penal Code, in order for sexual activity to be considered legal, consent must be given by:

- A person who is old enough to legally agree to sex (an adult aged 17 or over);
- A person who is mentally capable of understanding the activity;
- A person who is fully conscious and aware of the activity;
- A person who has not been intoxicated or drugged against their will; and,
- A person who has not been threatened or coerced.

Decision-Maker

An individual who leads and administers the Title IX Hearing. This individual is a University employee or contracted Title IX designee tasked with presiding over the Title IX Hearing to assess the relevancy of cross-examination questions and to render a determination of responsibility.

Discipline File

A discipline file is for employees and includes, but is not limited to, documented incident reports, informational reports, written statements, evidence relevant to the individual or evidence used in a Title IX grievance procedure, waivers, photo or video documentation, and notes added by the Title IX Coordinator. All items within the discipline file will be subject to FERPA or other applicable privacy mandates.

Discipline files will be maintained by the Title IX Coordinator in accordance with Human Resources for seven (7) years. For more information, see [Record Retention](#).

Employee

Any individual employed by the University, including temporary employees.

Evidence

Any verbal, physical, or digital content applicable to the investigation and the Decision-Maker to assess to determine responsibility. This includes inculpatory and exculpatory evidence. Inculpatory evidence is defined as any evidence that is favorable to the Complainant's case (e.g. Respondent is responsible). Exculpatory evidence is defined as any evidence that is favorable to the Respondent's case (e.g. Respondent is not responsible).

For more information, see [Preservation of Evidence](#).

Formal Complaint

The formal complaint is initiated once the report is signed by the respective Complainant alleging sexual harassment against a Respondent and requests that the University investigate the allegation of sexual harassment. A signed formal complaint may initiate a Formal Resolution or Informal Resolution of the Title IX grievance process.

In cases where the Complainant does not wish to sign the formal complaint, the University's Title IX Coordinator can sign the formal complaint depending on the circumstances. In such situations, the Title IX Coordinator, as signer of the complaint, does not become the Complainant or otherwise a party to the grievance process under this policy.

In cases where there are multiple Complainants in an incident, the University will allow for each Complainant to sign their respective report and, thus, initiating a Formal Resolution for only their Title IX grievance process.

To satisfy a formal complaint, the Complainant must be participating in or attempting to participate in the education program or activity of the University with which the formal complaint is filed.

Incident Database

The University will utilize Maxient, or other designated platform, as its case management software.

Investigator

An individual tasked with meeting with the principle parties, witness(es), and conducting a timely and thorough investigation portion of the Title IX grievance process.

The University exercises a two-investigator model to ensure an investigation is neutral and fact-finding.

Investigators must be either a Vice President, Associate Vice President, one directly reporting to a Vice President, one employed at the director level, or one specifically designated by a Vice President.

If the Respondent is a faculty member, the Title IX Coordinator will consult with the Office of the Provost for recommendations on respective investigators. If the Respondent is a staff member, the Title IX Coordinator will consult with Human Resources for recommendations on respective investigators.

Program or Activity

Includes locations, events, or circumstances over which the institution exercises substantial control over both the respondent and the context in which the sexual harassment occurs. This also includes any building owned or controlled by a student organization that is officially recognized by the University.

Any university-sanctioned event or function, including employment, athletics, field trips, etc.

For the sake of this policy, program or activity does not apply to incidents that happen outside of the United States. In these cases, incidents may be investigated and adjudicated through another process (e.g. student conduct process). For more information, see [Jurisdiction](#).

Remedies

Individualized services or outcomes for the Complainant after a determination of responsibility via Title IX Hearing process, which are designed to restore or preserve the Complainant's equal access to their educational program. Remedies provided to the Complainant may burden the Respondent and be punitive or disciplinary in nature.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation

Any intentional, adverse action taken by a responding individual or allied third party against a participant or supporter of an individual exercising rights under Title IX including participating or refusing to participate in a Title IX grievance process or other protected activity under this policy, including but not limited to the Title IX grievance process.

For more information, see [Retaliation](#).

Sanctions

Outcome(s) for the Respondent after a determination of responsible is found.

During the timeframe of an appeal, sanctions are held in abeyance. If no appeal is filed by either the Complainant or the Respondent, the decision becomes final.

Sanctions cannot be imposed against a Respondent unless the University completed a grievance process that complies with this policy.

Sexual Harassment

Sexual Harassment is defined as conduct on the basis of sex that satisfies one or more of the following prongs:

1. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
3. Any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

For more information, refer to the [Prohibited Conduct](#) section.

Standard of Evidence

The level of certainty and the degree of evidence necessary to establish proof in a criminal or civil proceeding.

The University utilizes the Preponderance of the Evidence standard. Preponderance of the Evidence is met if the proposition is "more likely to be true than not true." In other words, the standard is satisfied if there is a greater weight indicating that the proposition is true.

Student

All persons currently enrolled at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. One who withdraws from the University after allegedly violating the policy, who is not officially enrolled for a particular term but who have a continuing academic relationship with the University, or who has been notified of their acceptance for admission is considered a student.

Supportive Measures

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

For more information, see [Resources and Supportive Measures](#).

Third-Party Reporter

Any person (i.e., the victim of alleged sexual harassment, a bystander, a witness, a friend, or any other person) may report sexual harassment and initiate the University's obligation to respond to the sexual harassment allegation.

Third-party reporting does not require the third party themselves to become the Complainant.

In cases where the Complainant is a minor that is not affiliated with the University, a parent or guardian is allowed to report the individual's victimization and to make other decisions on behalf of the individual, such as considering which supportive measures would be desirable and whether to exercise the option of filing a formal complaint. In such a situation the parent or guardian does not, themselves, become the Complainant; rather, the parent or guardian acts on behalf of the Complainant.

Vendor

An individual or entity that sells goods or services to the University. Vendors are subject to University policies and processes. Vendors are not Mandatory Reporters

Volunteer

An individual that is not classified as an employee of the University. This includes, but is not limited to, athletic coaches. Volunteers are subject to University policies and processes. Volunteers are not Mandatory Reporters under this policy.

Witness

Any individual that can provide relevant information or direct knowledge relevant to the investigation, including an outcry witness. The University does not allow for character witnesses. A character witness is defined as a person who attests to another's moral conduct or good reputation.

The University provides the principle parties equal opportunity to present fact and expert witnesses during the Title IX investigation and hearing.

Prohibited Conduct

For the sake of this policy, Prohibited Conduct encapsulates the behaviors below.

Discrimination

Discrimination is the unjust or prejudicial treatment of different categories of people or things, especially on the grounds of race, age, or sex. For the sake of this policy, discrimination on the basis of sex, including sexual harassment, is prohibited.

Discriminatory Harassment

Discriminatory harassment is the unjust or prejudicial treatment of different categories of people or things, especially on the grounds of race, age, or sex. For the sake of this policy, discrimination on the basis of sex, including sexual harassment, is prohibited.

Discriminatory harassment is verbal or physical conduct that denigrates or shows hostility toward an individual because of his or her race, color, gender, national origin, religion, age (40 or over), physical or mental disability, sexual orientation, or because of his or her opposition to discrimination or his or her participation in the discrimination complaint process. In general, harassment is against the law when it creates an intimidating, hostile, or offensive working environment, or when it interferes with an individual's work performance.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be any sex/gender. The victim does not have to be of the opposite sex/gender.
- The harasser can be the victim's supervisor, an employee of the University, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- The harasser's conduct must be unwelcome.

Harassment Based on Sex

Discrimination on the basis of sex, which includes sexual harassment, is prohibited. Per the regulations from the Department of Education, sexual harassment is separated into three prongs.

1. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
3. Any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

Quid Pro Quo harassment and Clery Act/VAWA offenses (Prong 1 and Prong 2, respectively) are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such misconduct is sufficiently serious to deprive a person of equal access. Thus, a single incident is sufficient under Prong 1 and Prong 3.

Any individual, irrespective of sexual orientation or gender identity, may be victimized by the type of conduct defined as sexual harassment.

Prong 1—Quid Pro Quo

An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct, a *'this-for-that'* bargain. This includes when a University employee holds authority and control over a student's success or failure in a class or extracurricular activity. Communicated implicitly or explicitly, making educational benefits or opportunities contingent on a person's participation in unwelcome conduct on the basis of sex is a violation of Title IX.

Harassment under this prong is not required to be severe and pervasive; abuse of authority in the form of even a single instance of *Quid Pro Quo* harassment (where the conduct is not "pervasive") is inherently offensive and serious enough to jeopardize equal educational access. Such harassment may involve verbal conduct therefore, there is no risk of chilling protected speech or academic freedom by broadly prohibiting *Quid Pro Quo* harassment because such verbal conduct, by definition, is aimed at compelling a person to submit to unwelcome conduct as a condition of maintaining educational benefits.

In cases where the individual to allegedly violate this prong is a volunteer with the University, the case will follow a separate grievance process. Unwelcome conduct of a non-employee individual may constitute sexual harassment under the second or third prongs.

Prong 2— Severe, Pervasive, and Objectively Offensive

Sexual Harassment, under this prong, is defined as unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it denies a person access to the institution's education program or activity.

Prong 3—Clery/VAWA Crimes

Included under this prong is sexual assault, dating violence, domestic violence, and stalking as defined under The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA).

Sexual Assault

Sexual Assault is an umbrella term that encompasses Nonconsensual Sexual Penetration; Nonconsensual Sexual Contact; and conduct that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

- **Nonconsensual Sexual Penetration:** Sexual Penetration, however slight, performed upon another person that occurs without that person's Consent. "Sexual Penetration" means penetration of a vagina or anus by a penis, object, tongue, finger, or other body part; or contact between the mouth of one person and the genitals or anus of another person
- **Nonconsensual Sexual Contact:** Sexual Contact, however slight, performed upon another person that occurs without that person's Consent. "Sexual Contact" means intentional physical contact with another person's breasts, buttocks, groin, or genitals, whether clothed or unclothed; intentional contact with another person using one's breasts, buttocks, groin, or genitals, whether clothed or unclothed; causing another person to physically contact oneself with or on the other person's breasts, buttocks, groin, or genitals, whether clothed or unclothed; or any other type of intentional physical contact done in a sexual manner or for the purpose of sexual arousal or gratification, based on the perspective of a Reasonable Person

Rape

The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of any individual, including attempted rape.

Incest

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent. The legal age of consent, as defined by Texas, is 17 years old.

Fondling

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Dating Violence

Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

In cases involving allegations of mutual acts or threats of acts of violence, the designated investigator(s) will, when appropriate, identify the primary aggressor in the situation based on the totality of the information gathered, including without limitation: the history of violence between the parties; the relative severity of the injuries inflicted on each person; information gathered from the persons involved in the situation and witnesses to the situation; and whether the acts or threats were done in self-defense. The primary aggressor will be considered the Respondent for purposes of evaluating dating violence or domestic violence.

Domestic Violence

Domestic violence is defined as a felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;

- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Retaliation

Retaliation means an action taken because of a person's participation in a protected activity and that would discourage a reasonable person from engaging in protected activity.

"Protected activity" means a person's good faith:

- Opposition to Prohibited Conduct or assisting a person who opposes Prohibited Conduct;
- Report of Prohibited Conduct to the University, the police, or to a state or federal agency or assisting a person who reports Prohibited Conduct;
- Participation (or reasonable expectation of participation) in any manner (e.g., in an investigation, proceeding, or hearing relating to Prohibited Conduct) or requesting a supportive measure under this policy; and/or
- Exercise of rights or responsibilities under any provision of the Clery Act. An action is not taken in good faith if done with knowing or reckless disregard for information that would negate the accuracy of the report or information. Retaliation is a violation of this policy regardless of whether the underlying allegation of a violation of this policy is ultimately found to have merit.

It is prohibited for any University or other person from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

This provision protects any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, any witness, and any other individual who participates or refuses to participate in an investigation, proceeding, or hearing related to the Title IX regulations.

Charging an individual with Code of Student Conduct violations that do not involve sexual harassment but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.

In an effort to prevent incidents of retaliation, the University must keep private the identity of Complainants, Respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

The exercise of rights protected under the First Amendment does not constitute retaliation. For more information, see [First Amendment](#).

Charging an individual with a Code of Student Conduct violation for making a materially false statement in bad faith during a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

If you would like to report an allegation of retaliation, please complete this [form](#).

[False Claims](#)

The University must inform the parties of any provision in the University's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process. See Falsification within the Code of Student Conduct.

Charging an individual with a Code of Student Conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Reporting Options

A Complainant has multiple options for reporting Prohibited Conduct. A Complainant may report Prohibited Conduct to the University's Title IX Coordinator, a University employee, or to the police. The Complainant's safety and wellbeing is critical when reporting an allegation of Title IX. If the Complainant or the University has a concern for the safety of themselves or the campus community, the University will contact the Fort Worth Police Department. Ultimately, the decision to pursue a criminal complaint relative to the Complainant's report rests with the Complainant.

Individuals may file a report in person, online, via the conduct hotline, or via email.

- [Online Report Form](#)
- Email: titleix@txwes.edu
- Office Phone: 817-531-4890
- Mailing Address
 - 1201 Wesleyan St.
 - C/O Dean of Students Office
 - Fort Worth, TX 76105
- Physical Address
 - 3165 E. Rosedale St.
 - Fort Worth, TX 76105
 - Second Floor, Suite 230

Preservation of Evidence

The University recognizes that a Complainant may need time to decide whether to report an incident of Prohibited Conduct to law enforcement and/or the University. The purpose of this section is to provide Complainants with suggestions on preserving evidence while they decide whether to report an incident.

The University strongly encourages Complainants, as soon as possible after experiencing Prohibited Conduct, to take steps to preserve evidence of the Prohibited Conduct, such as:

- Have a forensic sexual assault nurse examination performed as soon as possible after the incident, but no later than 72 hours after the incident;
- When possible, prior to having a forensic sexual assault nurse examination performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
- Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Preserve or capture electronic communications such as text messages, e-mails, social media posts or exchanges (e.g., Snapchat, Instagram, Facebook, Twitter);
- Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
- Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigation.

Law Enforcement

Prohibited Conduct may constitute both a violation of this policy and criminal law. Therefore, the University encourages Complainants to report incidents of Prohibited Conduct to the police, but it is not

mandatory. The University will always provide the option to report to police, but that decision lies with the Complainant. Prompt reporting of an incident to law enforcement is especially critical for incidents of Nonconsensual Sexual Penetration because the collection and preservation of evidence relating to Nonconsensual Sexual Penetration often is essential for law enforcement investigations and criminal prosecutions. A Complainant has the right to decline to report the incident to law enforcement. Even if a Complainant does not report the incident to law enforcement, the Complainant may still request supportive measures by reporting the incident to the Title IX Coordinator.

In cases where the incident is reported to law enforcement, the University is not discharged of the legal obligation to provide education programs or activities free from sex discrimination by referring Title IX sexual harassment allegations to law enforcement (or requiring or advising Complainants to do so). The University recognizes that the purpose of law enforcement differs from the purpose of what the University is offering: education programs or activities free from sex discrimination.

Whether or not particular allegations of Title IX sexual harassment also meet definitions of criminal offenses, it is the University's obligation is to respond supportively to the Complainant and provide remedies where appropriate, to ensure that sex discrimination does not deny any person equal access to educational opportunities.

Concurrent Law Enforcement and University procedures

In the event there is a criminal or civil process as well as a University's administrative process, the University will cooperate with law enforcement if a Complainant decides to pursue the criminal process, to the extent permitted by law. However, the University's policy and procedures may differ in significant respects from criminal law.

A Complainant may seek resolution through the University's procedures outlined in the policy, may pursue criminal action, may choose one but not the other, may choose both, or may choose neither.

Procedures under the policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Although the University may delay temporarily the fact-finding portion of its investigation while law enforcement is gathering evidence, the University will implement appropriate supportive measures during such a delay as well as provide respective notice.

Decisions made or penalties imposed by the University are not based on a result of criminal or civil charges against a Respondent arising from the same incident being dismissed, reduced, rejected, sustained, or not prosecuted; however, a Respondent's plea or a finding against a Respondent in a criminal or civil proceeding may, at the University's discretion, be used by the University in a University disciplinary proceeding.

Institution

A person who wishes to report Prohibited Conduct to the University should contact the Title IX Coordinator or a Mandatory Reporter. Reporting to the Title IX Coordinator is the most direct form of reporting and initiates the University's actual knowledge.

For more information, see [Title IX Coordinator](#).

If a person reports [Prohibited Conduct](#) to a University employee who is not the Title IX Coordinator, then the employee's responsibility to report that information to the University depends on whether the employee is a Mandatory Reporter.

Mandatory Reporter

A Mandatory Reporter is a University employee who is required under Texas law to report information about known or suspected sexual harassment, sexual assault, dating violence, stalking to the Title IX Coordinator, whether the employee received the information by means of a complaint, report, personal observation, or otherwise, including information learned from third parties. A University employee is almost always a Mandatory Reporter when either the Complainant or Respondent is a student.

Employees who have questions about their reporting responsibilities, or students who have questions about an employee's reporting responsibilities, should contact the Title IX Coordinator.

A University employee is a Mandatory Reporter if either of the following apply:

- The Prohibited Conduct involves either a Complainant who is a student or a Respondent who is a student; or,
- The employee is the supervisor of either a Complainant who is an employee or a Respondent who is an employee, or otherwise has the authority to redress the Prohibited Conduct (e.g., human resources administrators, Dean of Students Office employees, Title IX Officials, department heads, deans, vice presidents, campus security).

Campus Security Authorities (CSA)

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) mandates that institutions must disclose statistics both for crimes reported to local police agencies or campus security and crimes reported to campus security authorities.

Campus Security Authorities include the following:

- A member of a campus police department or a campus security department of an institution.
- Any individual or individuals who have responsibility for campus security, but who do not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into institutional property).
- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, the following positions:
 - Division of Student Affairs and Residence Life personnel
 - Athletics Director and Coaching staff
 - Faculty Advisors, both academic and advisors to student organizations
- An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution. The intent of including non-law enforcement personnel as campus security authorities is to acknowledge that many people, students in particular, are hesitant about reporting crimes to the police, but may be more inclined to report incidents to other campus-affiliated individuals.

Those whose positions with the universities qualify them as Campus Security Authorities should note their obligation to report all criminal activity to Campus Security.

Confidential Resources

Confidential Resources are University employees who are not obligated to share any personally identifying information about a report of sexual violence (such as the survivor or accused's name) with law enforcement, the Title IX Coordinator, or any other University administrator.

The confidential resources for Texas Wesleyan University are the following individuals:

Anice Lewis-Hollins Director of Health Service 817-531-4948 alewis-hollins@txwes.edu	Scott Methvin Counseling Center Director/Counselor 817-531-4859 smethvin@txwes.edu
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Amnesty

For Victims

The University provides amnesty to student victims who may be hesitant to report to University officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result.

For Those Who Offer Assistance (Good Samaritan)

To encourage students to offer help and assistance to others, the University pursues a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Dean of Students, amnesty may also be extended on a case-by-case basis to the student receiving assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.

For Those Who Report Serious Violations

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the University are offered amnesty for their minor violations. Educational options will be explored, but no conduct proceedings or record will result.

Abuse of amnesty requests can result in a decision by the Dean of Students not to extend amnesty to the same person repeatedly.

Texas Wesleyan University may not take disciplinary action against a student who, in good faith, reports being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, domestic violence or stalking, for a violation by the student of the Code occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the disciplinary process regarding the incident.

This amnesty provision does not apply to a student who reports their own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, domestic violence, or stalking.

Texas Wesleyan University reserves the right to investigate to determine whether a report of an incident of sexual harassment, sexual assault, dating violence, domestic violence, or stalking was made in good faith. Texas Wesleyan University has the discretion to determine good faith, but in no event will good

faith exist if the student is found responsible for sexual harassment, sexual assault, dating violence, domestic violence, or stalking at or near the time of the incident.

Resources and Supportive Measures

On and Off Campus

Below are resources and support that can be found on campus or off campus.

On-Campus	
Community Counseling Center 3110 E Rosedale St, Fort Worth, TX 76105 Phone: 817-531-4859 Fax: 817-531-4213 TWCCC@txwes.edu	Chelsea Sepolio, Director for Title IX and ADA Compliance 3165 E. Rosedale St., Fort Worth, TX 76105 Phone: 817-531-4890 csepolio@txwes.edu
Off-Campus (Local)	
Women's Center of Tarrant County <i>Fort Worth:</i> 817-927-4040 1723 Hemphill Fort Worth, TX 76110 <i>Arlington:</i> 817-548-1663 401 West Sanford, Suite 1200 Arlington, TX 76011 <ul style="list-style-type: none"> • Rape Crisis Program: 817-927-4039 • Employment Program: 817-927-4050 • 24/7 Hotline: 817-927-2737 • General Counseling – 817-927-1000 https://www.womenscentertc.org/	Dallas Area Rape Crisis Center (DARCC) Presbyterian Hospital Dallas Jackson Building, Lower Level 8198 Walnut Hill Lane Dallas, TX 75231 24 hour local hotline: 972-641-RAPE (7273) Dallas Office: 214-345-5096 (Services are available to anyone impacted by sexual violence. All services are confidential and free of charge. Services are also available in Spanish). https://dallasrapecrisis.org/
Trauma Support Services of North Texas, Inc. 407 North Cedar Ridge Rd. Suite 315 Duncanville, TX 75116 972.709.4904 (All services free and confidential to Dallas and Tarrant County residents) www.tssnt.org	The Turning Point Rape Crisis Center P.O. Box 866754 Plano, TX 75086 972.985.0951 24-Hour Crisis Hotline – 800.886.7273 (Services are free of charge) www.theturningpoint.org
Hotlines/Helplines	
<ul style="list-style-type: none"> • 817-335-3022 (Crisis & Screening -Tarrant Co. MHMR) • 866-672-5100 (Suicide & Crisis Center of North Texas) <ul style="list-style-type: none"> • 214-828-1000 (24/7 Crisis Hotline) • 800-273-TALK (8255) (24/7 Hotline -Talk National Suicide Prevention) <ul style="list-style-type: none"> • 888-628-9454 (Spanish-speaking) • 800-273-TALK (8255) then press 1 (Veterans Crisis Line) 800-799-4TTY (4889) (Hearing impaired) 	

Protective Orders

Texas Wesleyan University cannot institute Protective Orders as they are court-ordered.

If you have been a victim of violence, stalking or sexual abuse, you can apply for a court order to keep your abuser away from you. This order is called a Protective Order (“PO”). There are different kinds of PO’s for victims of domestic abuse, dating violence, sexual assault, stalking and human trafficking.

A Protective Order orders an abuser:

- Not to hurt, threaten, or harass you or your children, either directly or through another person;
- To stay away from you, your family, your home, workplace, and children's day care or school;
- Not to carry a gun, even with a license.

The judge can also:

- Order payment of child support and medical support,
- Set terms and conditions for visitation with the children,
- Order the abuser to attend anger management classes,
- Order drug testing,
- Order the abuser to attend a substance abuse treatment program,
- Order the offender out of the home ("kick out order").

There are several ways to apply for a Protective Order:

- Contact your local county or district attorney's office,
- Contact your local family violence shelter, call 1.800.799.SAFE (7233) to find the nearest one,
- Contact your local legal aid office,
- Hire a private attorney,
- Complete the do-it-yourself PO Kit available from www.texaslawhelp.org. Trying to get a protective order without an attorney should be your last resort.

What must I show to get a PO? What you must show depends on the type of protective order.

For a family violence protective order, you must be able to show that violence has occurred and it is likely that violence will continue in the future.

For stalking, sexual assault, and human trafficking protective orders, you must be able to show the abuser committed either stalking, sexual assault, or trafficking.

Some considerations:

- Family violence includes any intimate partner violence, including dating violence and violence between same-sex partners,
- A specific relationship with the abuser is not required for sexual assault, stalking and human trafficking protective orders.
- Call the police when an incident occurs. If you have made reports before, it is more likely that a PO will be granted,
- Don't delay in applying for a protective order. Apply right after the incident. Waiting will reduce your chances of getting a PO, because the threat of immediate danger has passed.
- Document incidents of abuse. Photograph injuries, save threatening voice messages, texts and emails. The more details you provide, the more likely you are to get a PO.

The duration of a PO depends on a few aspects: the type of abuse (stalking, dating violence, sexual assault, family violence); the seriousness of the harm, if children were present, if an arrest was made, past violence, the likelihood of future violence, and other factors. PO's for family violence usually last two years, but can be for any duration, including for life. Sexual assault and stalking POs can last for life.

If the abuser violates a PO, they can be arrested and charged with a crime. Multiple violations can result in felony charges.

Texas Wesleyan University will comply with Protective Orders that are provided to the University. If you wish to provide a Protective Order to the University, please contact Campus Security at 817-531-4290.

Supportive Measures

Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The institution must maintain as private any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such privacy would not impair the ability of the University to provide the supportive measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

At the conclusion of a Title IX grievance procedure with a determination of responsible, supportive measures evolve into Remedies that are offered to remain in place to the Complainant.

Accommodations and Interpretive Services

Disability Resources

Texas Wesleyan University values all individuals that comprise our campus community and works to support them. The University must comply with obligations under disability laws with respect to students, employees, or participants in a Title IX reporting or grievance process situation: including the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 (Section 504), Individuals with Disabilities Education Act (DEA), and other applicable laws.

If a student or employee has a disability caused or exacerbated by, or arising from, sexual harassment, the University must comply with applicable disability laws (including with respect to providing reasonable accommodations) irrespective of whether the sexual harassment that caused or exacerbated the individual's disability constitutes Title IX sexual harassment to which the University must respond under these final regulations.

To the extent that disability accommodations may overlap with supportive measures or remedies required under Title IX, in these instances, the Title IX Coordinator is responsible for the effective implementation of such supportive measures or remedies.

If you would like to request accommodations to the Title IX grievance process, or as a result of it, please notify the Director for Title IX and ADA Compliance by completing this [form](#).

Interpretive Services

Access to effectively participate in a Title IX reporting or grievance process is important to the University. If there is a need for an interpreter, translator, or other similar service, the University may provide that service to the participant free of charge.

Student Responsibility

The University is prepared to provide the necessary resources to accommodate reasonable requests, however, it is the responsibility of the student to initiate that request using the form available above in the Disability Resources section.

Interim Action

Interim action is action taken on behalf of the University. There are two kinds of interim action, emergency removal or administrative leave.

Emergency Removal

An emergency removal is an interim or temporary action is reserved for student Respondents involved in a Title IX incident. The University has the discretion to enact an emergency removal of a student Respondent if:

- The University determines on a case-by-case basis that an immediate physical threat to the health or safety of any student or others arising from the alleged sexual harassment justifies removal; and,
- Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

An emergency removal must not effectuate, in any way, a pre-judging of the allegation(s) against the Respondent, who is entitled to a presumption of non-responsibility pending the completion of a grievance process. The University may remove a student Respondent on an emergency basis whether a grievance process is underway or not. Moreover, this section does not impose a temporal restriction on when an emergency removal may be considered and implemented, as risks arising from sexual harassment can occur at any time.

Emergency removal of a student Respondent can happen before an investigation into sexual harassment allegations concludes, or where no grievance process is pending (i.e., at the time of the University receiving of the report). The University is permitted to remove student Respondents in emergency situations that arise out of allegations of conduct that could constitute Prohibited Conduct under this policy.

An emergency removal is not limited to instances where the Complainant has reported an alleged sexual assault or rape, but could also be justified to address alleged severe, pervasive, and objectively offensive verbal or online harassment. The identification of an immediate risk situation is not limited to the details of the alleged sexual harassment incident itself but may also evaluate and respond to a Respondent's related post-incident actions or behaviors.

In instances where the Respondent's actions pose an immediate and identified threat, but do not arise from allegations of sexual harassment, the University is allowed to respond under its Code of Student Conduct or in accordance with applicable laws.

Student Respondents that have been subject to an emergency removal are to be provided notice and an opportunity to challenge the decision immediately following the removal.

To appeal the decision of an emergency removal, please complete the online form [here](#).

These requirements shall not be construed to modify any rights under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), or the Americans with Disabilities Act (ADA). Thus, the removal of a student on an emergency basis under this portion may occur, but only to the extent that such removal conforms with the requirements of the IDEA, Section 504, and the ADA.

Administrative Leave

Administrative leave is an interim or temporary action for non-student employee Respondents involved in a Title IX grievance process. The University has the discretion to place an employee Respondent on administrative leave with or without pay, dependent on the circumstances but without an undue burden on the Respondent.

The process for putting a non-student employee Respondent on administrative leave can only begin after a formal complaint has been filed against the Respondent and as the grievance process begins. Administrative leave is designed to effectuate a temporary separation of the non-student employee while the grievance process ensues under its reasonably prompt time frame.

The University can place student-employees on an administrative leave in a non-emergency situation, but the decision must be evaluated using the emergency removal standards and must not unreasonably burden the Respondent.

Employee Respondents that have been subject to administrative leave are to be provided notice and an opportunity to challenge the decision immediately following the removal.

To appeal the decision of an administrative leave, please complete the online form [here](#).

This provision shall not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 (Section 504) or the Americans with Disabilities Act (ADA). Thus, administrative leave may occur, but only to the extent that it conforms with the requirements of Section 504 and the ADA.

Grievance Procedures

Introduction

The University, in accordance with the regulations from the Department of Education, is required to investigate formal complaints in a manner that is consistent and transparent while maintaining equity, timeliness, and support. This can be done through a Formal Resolution or an Informal Resolution.

Equity

The University will treat Complainants and Respondents equitably by recognizing the need for Complainants to receive remedies where a Respondent is determined responsible and for respondents to face disciplinary sanctions only after a fair process determines responsibility. The University presumes the non-responsibility of Respondents until conclusion of the grievance process.

Objective Evaluation of Evidence

The University's grievance procedures require an objective evaluation of all relevant evidence available in a particular case, including both inculpatory and exculpatory evidence, and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness. Principle parties will be able to inspect and review all relevant evidence before a determination of responsibility is made.

The aspect of 'all' the evidence is tempered by what a thorough investigation effort can gather within a reasonably prompt time frame.

The University is also charged with protecting every party's right to consent to the use of the party's own medical, psychological, and similar treatment records.

Training

Training of Title IX personnel, including the Title IX Coordinator, Deputy Coordinators for Title IX, investigators, decision-makers, facilitators of Informal Resolution, must participate in training on the definition of sexual harassment, the scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

For more information, see the Training Materials section of this policy.

Prompt Timeframes

The University recognizes the value of timely and thorough grievance processes and will conduct the Title IX grievance process with both characteristics. The burden of proof placed on the University i.e. gather evidence, should not deviate from the University's effort to provide a fair, timely, and thorough Title IX grievance process, within designated reasonable time frame.

The principle parties, Complainants and Respondents, are encouraged to participate fully and robustly in the investigation process, by providing evidence, presenting fact and expert witnesses, reviewing the evidence gathered, responding to the investigative report that summarizes relevant evidence, and asking questions of other parties and witnesses before a Decision-Maker has reached a determination regarding responsibility.

Standard of Evidence

The University utilizes the Preponderance of the Evidence standard. Preponderance of the Evidence is met if the proposition is “more likely to be true than not true.” In other words, the standard is satisfied if there is a greater weight indicating that the proposition is true.

Privileged Information

The University’s grievance process respects information protected by a legally recognized privilege (for example, attorney-client privilege, doctor-patient privilege, spousal privilege, and so forth), information acquired by the University will be kept private and confidential in accordance with privacy laws.

The University’s grievance process must not access, consider, rely on, or disclose information protected under a legally recognized privilege, unless the person holding such privilege has waived it.

Sanctioning and Remedies

If the Title IX Hearing has rendered a determination of responsible, the transcript from the Title IX hearing, the investigation report, and relevant inculpatory and exculpatory evidence will be turned over to the Title IX Coordinator to assess respective sanction(s) and remedies on a case-by-case basis.

Range of Remedies

Remedies can include individualized supportive measures but need not be non-disciplinary and may include, but are not limited to, mutual no-contact order continued.

Range of Sanctions

Sanctions may include, but are not limited to, educational opportunities i.e. online certificate, probation, suspension, or expulsion. The University will exercise thoughtful care when assessing the sanction(s) imposed on a Respondent with a determination of responsibility.

Appeals Available under this Policy

It is the right of the student or employee to appeal decisions made under this policy using this [form](#).

- Appeal the Title IX Hearing and/or Sanction(s)
 - Afforded to the Complainant(s) or the Respondent(s)
- Appeal the Dismissal of the Complaint
 - Afforded to the Complainant(s) or the Respondent(s)
- Appeal the Interim Action of the Respondent
 - Afforded to the Complainant(s) or the Respondent(s)

Either party, Complainant(s) or Respondent(s) are eligible to appeal on at least one (1) of the following grounds:

1. Procedural irregularity that affected the outcome of the matter,
2. New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome of the matter, and/or
3. Title IX personnel (Title IX Coordinator, investigator, or decision-maker) had a conflict of interest or bias, that affected the outcome of the matter.

Notice

The Title IX Coordinator will provide written notice throughout the Title IX reporting and grievance process with participants.

In the case of a Formal Resolution, the Title IX Coordinator may send the following notices to the Complainant and the Respondent. The University will send written notice of any investigative interviews, meetings, or hearings to the participants. Notices include, but are not limited to:

- Notice of Allegation and Investigation
 - Sufficient details known at the time, including:
 - The identities of the parties involved in the incident, if known.
 - The conduct allegedly constituting sexual harassment under this policy.
 - The date and location of the alleged incident, if known.
 - Names, titles, and role of the Investigators
 - Presumption of Non-Responsibility and that a determination regarding responsibility is made at the conclusion of the grievance process
 - Right to have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence
 - Inform the parties of any provision in the University's Code of Student Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process
 - The right to be free of retaliation
 - Sufficient time to prepare a response before any initial interview
- Notice of Hearing
 - Specific date, time, location (including online location), of hearing
 - Hearing Decorum
 - Requirement to have an advisor, provide access to pool
 - Provide Investigative Report
 - Presumption of Not Responsible
 - Name of the Decision-Maker with form to request a recusal
- Notice of Hearing Outcome and Sanctions/Remedies
 - Appeal information with link to complete the online Appeal Request Form
 - For specific information, see Determination of Responsibility
- Notice of Dismissal (Mandatory or Discretionary)
 - Include reasoning for dismissal
 - Opportunity to challenge the decision to dismiss
- Notice of Delay

Dismissal

The University must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined this policy even if proved, did not occur in the University's education program or activity, or did not occur against a person in the United States, then the University must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under this policy. If dismissed, the University can pursue action under another provision of the University's Code of Student Conduct or other grievance process.

Below are two types of dismissal that the University can employ under this policy.

Mandatory Dismissal

The University is required to dismiss a formal complaint of sexual harassment in three specific circumstances:

- The alleged conduct would not constitute sexual harassment as defined under this policy, even if proved;
- The alleged conduct did not occur in the recipient's education program or activity; or
- The alleged conduct did not occur against a person in the United States.

This provision incorporates the terms "sexual harassment," "education program or activity," and "against a person in the United States," which are defined and/or explained in other sections of this policy.

Discretionary Dismissal

The University is allowed to dismiss a formal complaint of sexual harassment or any allegations therein if at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by the University; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the Title IX Coordinator receives a withdrawal from the Complainant during the investigation or hearing, the University may dismiss complaint or may decide to continue with the investigation and hearing in certain situations. Below are some examples in which the University can continue an investigation or hearing:

- When the information obtained supports that the Respondent may pose an ongoing risk to the campus community;
- Where the University has gathered evidence apart from the Complainant's statements and desires to reach a determination regarding the Respondent's responsibility; or,
- When a determination regarding responsibility provides a benefit to the Complainant even where the University lacks control over the Respondent and would be unable to issue disciplinary sanctions, or other reasons.

When the Respondent is no longer enrolled or employed, the University may choose to dismiss the complaint. In cases like this, the University might not have a way to gather evidence sufficient to make a determination.

Finally, the University is allowed to dismiss a formal complaint of sexual harassment when "specific circumstances" exist that prevent the University from "gathering evidence sufficient to reach a determination" as to the formal complaint or allegations. Below are some examples in which the University may present "special circumstances" supporting dismissal:

- When no Complainant is identified during the investigation.
 - Without knowing a Complainant's identity, the University may not be able to gather evidence necessary to establish elements of conduct defined as sexual harassment

under this policy, such as whether alleged conduct was unwelcome, or without the consent of the victim.

- When a formal complaint contains allegations that are precisely the same as allegations the University has already investigated and adjudicated.
- When the length of time elapsed between an incident of alleged sexual harassment, and the filing of a formal complaint, prevent the University from collecting enough evidence to reach a determination.
- When the Complainant has stopped participating in the investigation but has not sent a written withdrawal request and the only inculpatory evidence available is the Complainant's statement in the formal complaint or as recorded in an interview by the investigator.

Misconduct Outside of the Scope of this Policy

In instances of an allegation that falls outside of this policy's application or jurisdiction, the University can investigate and adjudicate misconduct in a separate grievance process (e.g., Code of Student Conduct, Title VII).

Written Notice of Dismissal

If the University dismisses, the University must provide written notice to the Complainant and the Respondent that includes reasoning for that dismissal.

Either party may submit a request to challenge the dismissal of a formal complaint or allegations therein of sexual harassment. Under this provision, the grounds to challenge are:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome of the matter; and/or
- Title IX personnel (Title IX Coordinator, investigator, or decision-maker) had a conflict of interest or bias, that affected the outcome of the matter.

If you would like to challenge the University's decision of dismissal, please complete this [form](#).

Intake Process

After receiving a report of Prohibited Conduct, the Title IX Coordinator will take immediate and appropriate steps to:

- Meet with, or otherwise communicate with, the Complainant to:
 - Offer supportive measures
 - Provide Reporting Options and potential options within the Title IX grievance process (formal or informal)
 - Provide objective information regarding a formal complaint
 - Gather sufficient information regarding the incident
 - Deter Retaliation
 - Attempt to remedy the effects of Prohibited Conduct through reasonable support services, accommodations, and other assistance
- In cases where the allegation is Non-Title IX sexual harassment:

- Notification about counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the University and in the community;
- Notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures; and
- Options to pursue a separate grievance process (e.g., Code of Student Conduct, Title VII).
- Subject to a Complainant's request to sign a formal complaint, initiate the investigation and resolution procedures outlined in this policy, based on an initial assessment, the alleged conduct meets the definition of Prohibited Conduct and falls within the scope and applicability of this Policy; and
- If the Complainant requests, assist the Complainant in reporting the incident to the police.

The Title IX Coordinator may delegate the authority to take the some or all the steps described above to a Deputy Coordinator for Title IX.

Consolidation of Complaints

The University may consolidate formal complaints arising out of the same factual circumstances in two instances:

- Where there is more than one Complainant or Respondent.
- Where a cross-complaint has been filed by a Respondent against a Complainant.

Multiple Parties

In instances where there are multiple parties as either the Complainant or the Respondent, the University can utilize a single investigatory and adjudicatory process in a consolidated complaint. In such cases, each party (and their advisor, if elected) would independently receive notices and evidence for review. The University will only create one investigative report in such multi-party cases. All parties to a consolidated complaint will also receive the same written determination.

The determination of responsibility in multi-party cases may be different with respect to each allegation depending on the facts. The written determination must be provided simultaneously to the parties and may not be redacted.

Cross-Complaints

In the event of a cross-complaint, each party is entitled to the rights attached to their respective status. In other words, a Respondent who files a cross-complaint against the Complainant would be entitled to request supportive measures that otherwise would be reserved to the Complainant.

Principle parties may participate fully and robustly in the investigation process, by providing evidence, presenting fact and expert witnesses, reviewing the evidence gathered, responding to the investigative report that summarizes relevant evidence, etc.

Formal Resolution

Investigation

Upon receipt of a formal complaint of sexual harassment or sexual discrimination against a student, employee, guest or vendor, the Title IX Coordinator will assign it to two (2) investigators. Investigators must be either a Vice President, Associate Vice President, one directly reporting to a Vice President, one employed at the director level, or one specifically designated by a Vice President.

The assigned investigators shall investigate the complaint, interview the principle parties and witnesses involved, and gather all pertinent information. The investigation shall be completed in a timely and thorough manner. An investigation report shall be prepared and provided to the principle parties and their advisors as well as the Title IX Hearing's decision-maker.

At any stage in the investigation, the Respondent may be subject to interim action. Specific interim action is dependent on the role of the Respondent within the University. 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.

With notice provided to the participating parties, the investigators will serve as fair, neutral, fact-finding bodies. The investigators will conduct the interviews with the following parties and in this sequence:

- Initial interview with the Complainant(s)
- Initial interview with the Respondent(s)
- Interview witness(es)
- Follow-up interview with the Complainant(s)
- Follow-up interview with the Respondent(s)

The University will provide the principle parties an equal opportunity to inspect and review any evidence so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation by sending the evidence subject to inspection and review.

Investigation Report

Once interviews are complete, the investigators will create the investigation report that summarizes all interviews, including witness statements, evidence provided, etc. The University will provide the principle parties the investigation report. The principle parties will have ten (10) business days to review, edit, comment, or clarify via a written response, which the investigators will consider prior to completion of the final investigation report. The investigators are not be required to accept a late submission from the principle parties.

If the return written response triggers additional investigative responsibilities and those responsibilities uncover additional evidence, then the parties will be given another opportunity to respond. This may result in a second cycle of inspection and review of evidence, if not more.

Investigators will generate the final investigation report or may provide the parties with written notice extending the investigation and explaining the reason for the extension.

Once completed, the investigation report will be sent to the principle parties and their advisor(s) at least ten (10) business days before the hearing date. If a party wishes to submit a written response to the investigation report, the party must submit the report at least 48 hours prior to the scheduled start of the hearing.

Hearing

Decision-Maker

The Decision-Maker is obligated to serve impartially and as a neutral party and cannot be the Title IX Coordinator. The Decision-Maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question posed by an Advisor, the Decision-Maker must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant. Therefore, once the advisor asks the question, and before the party or witness can respond, the Decision-Maker must assess relevancy of that question to the case; if the Decision-Maker determines that it is not relevant, then the Decision-Maker must justify that decision and the party is not allowed to respond. The Decision-Maker and the Advisors are the only individuals who can ask questions to the principle parties and/or witnesses—never the principle parties themselves.

Decision-Maker Selection

The Decision-Maker will be drawn from a pool of employees or external experts trained in hearing Title IX cases by the Title IX Coordinator. The Complainant and Respondent will have the opportunity to state whether they feel the Decision-Maker should not participate in that role due to bias, conflict of interest, or any other reason which would prevent them from making a fair assessment of the evidence. To do so, the principle parties must submit a form to the Title IX Coordinator. The final decision on any such requests for recusal will be made by the Title IX Coordinator. The Decision-Maker will hear the case and determine, based on the preponderance of the evidence, whether there has been a Title IX violation by the respondent.

Before the Hearing

The Decision-Maker must review the Title IX investigation report prepared by the assigned investigators and reviewed by the Title IX Coordinator. The Title IX investigation report contains all reported and relevant information, as well as relevant and reviewed evidence, regarding the incident in question prior to the date of the Title IX Hearing.

Additional information may be offered in the form of written statements, documents, items, or oral information from the Complainant, the Respondent, and witnesses to the Decision-Maker for review.

The information will be forwarded to the Decision-Maker once relevance to the case is established, as well as the Title IX Coordinator confirming that parties who provided a statement or evidence to the investigation will be subject to cross-examination.

Should a party or witness who has provided a statement or evidence to the investigation not submit to cross-examination at the live hearing, that person's statement and related evidence cannot be admitted into the Title IX Hearing. The Decision-Maker, then, must not rely on any statement of that party in reaching a determination regarding responsibility. Moreover, the Decision-Maker cannot draw

an inference about the determination regarding responsibility based solely on a party's or witness' absence from the Title IX hearing or refusal to answer questions during the hearing.

Use of Technology

The Title IX Hearing will be conducted virtually and will include audio and video capabilities and include accommodations (e.g., closed captioning). If any party or witness would like to reserve respective technology or a room on campus to conduct the Title IX Hearing, please notify the Title IX Coordinator via this [form](#).

Good Cause for Delayed Hearing

Texas Wesleyan University will use discretion when determining good cause to delay a Title IX Hearing. Below are examples that might constitute a delay for good cause:

- Absence of a party, an advisor, or a witness;
- Concurrent law enforcement activity; or,
- Need for language assistance or accommodation of disabilities.

If you would like to request a delay of the Title IX Hearing, please contact the Director for Title IX and ADA Compliance who will assess all requests. For contact information, see [Title IX Coordinator](#).

The University will comply with obligations under applicable disability laws, and contemplate that disability accommodations (i.e., a short-term postponement of a hearing date due to a party's need to seek medical treatment for anxiety or depression) may be good cause for a limited extension of the University's designated, reasonably prompt time frame for the grievance process.

The decision to allow delays is at the discretion of the Title IX Coordinator.

Live Hearing with Cross-Examination

The Title IX Hearing is a closed hearing; it is not open to the public. These hearings are conducted live and in real-time. The individuals who may appear before the Title IX Hearing Decision-Maker include: the Complainant, the Respondent, the respective advisor of each principle party, and any individuals appearing as witnesses. The Title IX Coordinator, though not a participant, should be present for all Title IX Hearings.

Due to the sensitive nature of these cases, Texas Wesleyan University will utilize technology to conduct the hearings as the principle parties are to be in separate rooms. The Title IX Hearing will be conducted virtually to maintain distance between parties and allow for private advice from the advisor.

The University recognizes the toll that a Title IX Hearing can take on a person, therefore, the Title IX Coordinator will use discretion when scheduling a Title IX Hearing; potentially limiting hours per day might cause for multiple sessions. The Title IX Coordinator will manage the scheduling and consider conflicting schedules, allow for emergencies or unanticipated events, and keep sessions temporally similar.

Advisors

Principle parties (the Complainant and the Respondent) can select an advisor of their choice and one (1) advisor is required for the Title IX Hearing. The role of the advisor is to advise their party, participate in cross-examination, and abide by the Hearing Decorum.

If a party does not have an advisor present at the live hearing, the University must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

In cases that the advisor is an attorney and is utilized during the investigation stage of the Title IX grievance process, the student is obligated to provide written notice to the Title IX Coordinator at least three (3) business days in advance to the scheduled meeting to allow that the University's General Counsel to be present as well. If a party's advisor is an attorney, the University's General Counsel is expected to be present at the Title IX Hearing.

In cases where the Title IX Coordinator signs the formal complaint, the Title IX Coordinator will not act as the Complainant or otherwise a party to the grievance process. In all situations, the Title IX Coordinator or the investigators will never be the decision-maker in a Title IX Hearing.

It is the expectation of all parties involved in a Title IX Hearing to keep all information learned in preparation for the hearing, and at the hearing, private. This expectation should not, and does not intend to, inhibit a party's ability to gather evidence, speak to witnesses, or discuss the allegations that would allow the parties to have a fair and equal opportunity.

Accommodation requests for the Title IX Hearing can be made [here](#). These requests apply only to the Title IX grievance process and/or hearing.

The advisor has the opportunity to, at the time of selection, decline the appointment made by the party or the Title IX Coordinator. The advisor is not obligated to accept the selection.

Procedure at Hearing

1. Introduction and role of the Decision-Maker
 - a. The Decision-Maker will read the Hearing Decorum and ask for verbal agreement from both principle parties and advisors to abide by those expectations.
2. Decision-Maker will state their role as well as ask if all parties are present.
 - a. Verbal acknowledgement is necessary to proceed.
3. Decision-Maker allows for a 10-minute maximum of an opening statement. The Complainant will be the initial speaker.
 - a. If the Complainant declines or begins and needs assistance, the Complainant's Advisor may finish the opening statement.
4. Decision-Maker allows for a 10-minute maximum of an opening statement. The Respondent will be the initial speaker.
 - a. If the Respondent declines or begins and needs assistance, the Respondent's Advisor may finish the opening statement.
5. The advisor of the Complainant calls the Complainant, witnesses, and produces relevant inculpatory and exculpatory evidence and allow for cross-examination by the advisor of the Respondent.
6. The advisor of the Respondent calls the Respondent, witnesses, and produces relevant inculpatory and exculpatory evidence and allow for cross-examination by the advisor of the Complainant.
7. The Decision-Maker renders a decision of responsibility to the Respondent.

It is also the duty of the University to simultaneously send the parties a written determination explaining the reasons for the outcome.

Texas Wesleyan University will capture and store the hearing's recordings for seven (7) years and will transcribe the recordings to be made available to the principle parties for inspection or review, upon request. It is the responsibility of the University to create an audio or audiovisual recording, or transcript, of any live hearing.

Hearing Decorum

1. The Decision-Maker reserves the right to intervene during the hearing to maintain proper decorum of all parties involved.
2. All questioning must be relevant, respectful, and non-abusive. This expectation is set for all of the participants in the hearing.
3. The dignity and integrity of the hearing is always to be respected and maintained by all parties and individuals. The University will rely on the recording and transcript provided by the University. Any photos or separate recordings by other parties are not official.
4. Attire for all parties should be appropriate and business casual.
5. It is expected that no one speak over another person, as much as it can be avoided, as the Title IX Hearing will be transcribed.
6. Advisors and their parties should mute private conversations to ensure confidentiality and omit from the permanent hearing recording.
7. Address all remarks to the Decision-Maker, not to opposing advisor, or the other principle party.
8. All parties should be stationary (i.e., not driving) during the hearing.
9. Breaks will be allowed by the Decision-Maker at their discretion. It is expected that all parties, unless expressly instructed, will return to the hearing.

Determination of Responsibility

The Decision-Maker presiding over the Title IX Hearing is charged with determining responsibility using the preponderance of the evidence standard based on the applicable information gathered through the grievance process (testimony of principle parties, evidence presented, the investigation report, etc.).

After the Title IX Hearing, the Decision-Maker will render a determination of responsibility and it will be simultaneously shared with the principle parties as well as advisors.

The written determination will contain the following, but is not limited to:

1. Identification of the allegations potentially constituting sexual harassment as defined in this policy;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the University's policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the Respondent,

- and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
6. The University's procedures and permissible bases for the Complainant and Respondent to appeal.

Determination of Sanction(s)

Once the Title IX Hearing is complete and if the Respondent was determined to be responsible, the Title IX Coordinator will assess sanction(s) and remedies that are fair and consistent with the allegation. The decision of sanction(s) and remedies will be sent to the respective parties via email.

Appeal of Title IX Hearing

The University is required to offer both parties (Complainant and Respondent) an appeal from a determination regarding responsibility, and from a dismissal of a formal complaint, or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

To request an appeal, please complete this online [form](#). This online form will serve as your appeal.

Principle parties will have five (5) business days to file an appeal after the Notice of Hearing Outcome and/or Notice of Sanctions/Notice of Remedies is sent.

The decision from the respective appellate administrator will be sent to you via email in seven (7) business days. This decision is final.

If an appeal is filed by either principle party, the decision is not final until the appellate administrator's decision has been reached. If no appeal is filed by any party after the allotted five (5) business days, the decision is final.

Informal Resolution

The University can choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Any person who facilitates an informal resolution must be well trained.

The University will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Similarly, a school may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed.

In cases that allege an employee sexually harassing a student, informal resolution is not an option.

Notice

At any time prior to agreeing to a resolution, either party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. The Title IX Coordinator must be informed of this decision and will facilitate the transition from the Informal Resolution process to the Formal Resolution process.

In the case of a reluctant Complainant, the Title IX Coordinator may initiate the Informal Resolution process if both parties agree.

Process

The goal of the Informal Resolution is to attempt to reach an outcome that is acceptable to both the Complainant and the Respondent. The University does not make a determination as to whether a Respondent has engaged in Prohibited Conduct, instead, attempts to facilitate a mutually acceptable resolution. Title IX Coordinator will determine which allegations are eligible for resolution via the Informal Resolution process.

For qualifying cases, both the Complainant and Respondent may request resolution of an allegation via the informal resolution process.

In the informal resolution process, a trained mediator will speak to those people whose involvement is necessary to facilitate a resolution. Frequently, this includes only the Complainant and Respondent.

Possible informal resolutions might include, but are not limited to:

- Facilitating an agreement between the parties;
- Separating the parties;
- An agreement by Respondent to cease the behavior;
- Referring the parties to counseling programs;
- Assisting the Respondent to better understand the effects of their conduct and ways in which the behavior might be changed; or
- Participation in targeted educational or training programs about consent, equal opportunity, diversity or other respective program.

If the parties involved in the Informal Resolution process fail to reach a mutually agreeable outcome for the alleged conduct, the allegation will be resolved via the Formal Resolution process. Agreements

reached via the Informal Resolution process shall be final and cannot be appealed absent the discovery of new and material information or other similar circumstances, in which case a new investigation may be initiated.

Early College High School Program

The University participates in programs that facilitate the education of K-12 students on the campus. In cases of reported prohibited conduct are made that include the K-12 participant, the University's employee, or the incident occurred on the campus, the University is responsible to investigate and adjudicate under an abbreviated Title IX grievance process and will cooperate with the respective school district.

Reporting

All employees a part of the Early College High School program are mandatory reporters and are required to inform the High School's Title IX Coordinator and the [University's Title IX Coordinator](#).

A report of conduct that could constitute sexual harassment made to any elementary or secondary school employee constitutes actual knowledge for the purpose of triggering a school's obligations under Title IX.

Parent or Guardian Participation

The participation of a parent or guardian of a student enrolled in the Early College High School program with the University is not necessary, but encouraged. While the student is a designated a minor, their educational record as it relates to FERPA is active.

Grievance Process

Upon receipt of complaint, the University will promptly offer the Complainant supportive measures and explain the process for filing a formal complaint, conduct an [investigation](#) following the outlined process, as permitted, and be in communication with the respective parties throughout the grievance process. This includes the [Investigation Report](#) and respective timeframe.

Mentioned earlier, participants in an Early College High School-related Title IX grievance process is subject to the same treatment of the following, but not limited to:

- [Supportive Measures](#)
- [Interim Action](#)
- [Notice](#)
- [Accommodation and Interpretive Services](#)

Hearing

Under 37.009(f): "Before a student may be expelled under Section 37.007, the board or the board's designee must prove the student a hearing at which the student is afforded the appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the district."

The University will provide written notice to both parties prior to any investigative interviews or meetings.

Participants are allowed a written submission of questions prior to adjudication, a procedure that benefits the truth-seeking purpose of the process even when the rights of a young student are exercised by a parent or legal guardian.

Education and Prevention

Education and prevention are vital to promote a safe environment for our campus community. Texas Wesleyan University is committed to providing meaningful, effective, and on-going education and prevention programs for its students and employees. This collaborative effort is outlined below and is enforced by the Title IX Coordinator.

Similar information can be found in the University's [Annual Security and Fire Safety Report](#).

Primary and Ongoing

All first-time students at Texas Wesleyan University participate in sexual assault education and prevention as well as alcohol education. Student-employees (i.e., Resident Assistants and New Student Mentors) receive training on the Clery Act and Title IX. All employees participate in discrimination education, sexual harassment education, education on boundaries, Campus SaVE Act, and more.

Bystander Intervention

Bystander intervention is action to effectively assist in the prevention of sexual violence due to feeling empowered and equipped with applicable skills and knowledge. Bystander intervention does not have to jeopardize the safety of the bystander.

Bystander intervention and “bystander education programs teach potential witnesses safe and positive ways that they can act to prevent or intervene when there is a risk for sexual violence. This approach gives community members specific roles that they can use in preventing sexual violence, including naming and stopping situations that could lead to sexual violence before it happens, stepping in during an incident, and speaking out against ideas and behaviors that support sexual violence. It also gives individuals the skills to be an effective and supportive ally to survivors after an assault has taken place.” (<http://www.nsvrc.org/bystander-intervention-campaigns-and-programs>)

Bystander intervention can be something as quick as telling a friend that their sexist language is offensive or as great as a college student calling the police if they witnesses an act of sexual violence from a residence hall window. Regardless of the level of intervention, there are safe ways to help prevent sexual violence.

4 D's of Bystander Intervention

Direct—Respond directly to the aggressor or physically intervene if necessary, but safely. Be confident, assertive, and calm.

Examples: Safely engage a street harasser and directly ask them to stop their behavior.

Delegate—Bring in another person to help, possibly someone with more perceived authority.

Examples: Alert a store manager, bus driver, club bouncer, or someone else to help intervene.

Distract—A subtle and creative way to intervene. Distract either the harasser or the target with conversation unrelated to the harassment to derail and de-escalate the situation.

Examples: Ask for directions; Spill your drink “accidentally;” Pretend you know one of them.

Delay—If you can't intervene in the moment, you can check in with the person being harassed afterwards to see if you can do anything to support them, illustrating that they are not alone.

Examples: “Is everything okay? Is there anything I can do?” “Is there someone we can call?” “Can I buy you a cup of coffee?”

Bystander Intervention training is offered to students and employees of the University every semester.

Risk Reduction

Risk reduction tips can often take a survivor-blaming tone, even unintentionally. With no intention to survivor-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act.

- Make your limits known as clearly and early as possible.
- Tell a sexual aggressor “no” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a person who is intoxicated as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct: Clearly communicate your intentions to your sexual partner and give them a chance to clearly relay their intentions to you.

- Understand and respect personal boundaries.
- Do not make assumptions about consent; about someone’s sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then consent is not present.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension, and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Do not take advantage of someone’s drunkenness or drugged state.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Do not abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

Annual Training

The Title IX Coordinator, investigators, advisors, decision-makers, or any person designated by the University to facilitate an informal resolution process are required to undergo annual training on the following topics:

- All
 1. Scope of the institution’s education program or activity

2. The technology to be used at a live hearing
 3. Issues of relevance of questions and evidence
 4. Rape shield protections
 5. Trauma-Informed interviewing practices
- Investigators
 1. How to conduct an investigation and fair grievance process
 - a. Including hearings, appeals, and Informal Resolution processes
 2. Issues of relevance to create an investigative report that fairly summarizes relevant evidence
 3. Issues of relevance in creating an investigative report
 4. Bias
 - Decision-Makers
 1. How to determine relevancy
 - a. Including evidence and questioning
 2. How to serve impartially
 - a. Including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
 3. Training on any technology to be used at a live hearing

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

Not all of the training topics listed above are required for all Title IX personnel, but respective of the role that each individual serves as a part of the Title IX personnel.

Record Management

The University will maintain records and documentation concerning sexual harassment reports, formal complaints, investigations, and adjudications for seven (7) years.

Reports

Under state law, the Title IX Coordinator is required to report certain data to the President of the University. Including:

- Date of Incident
- Date of Report
- Allegation
- Finding
- Sanction(s), if applicable

If you would like to review the report, please see [Quarterly Reports](#).

Training Materials

The University will publish materials used for training Title IX Coordinators, investigators, Decision-Makers, and persons who facilitate informal resolutions on the University's website or make these materials available upon request for inspection by members of the public.

Data Custodian

The Title IX Coordinator is responsible for maintaining the relevant records on behalf of the University.

Record Retention

To be in compliance with the Department of Education's regulations as well as the Clery Act, the University will maintain records of:

- The investigation, including any determination of responsibility, any required audio or audiovisual recording or transcript;
- Any supportive measures provided to the Complainant and/or the Respondent;
- Any disciplinary sanctions imposed on the Respondent, and any remedies provided to Complainant;
- Any appeal and its result;
- Any informal resolution and its results;
- Documentation for any conclusions made on behalf of the University's and that it has taken measures designed to preserve access to the institution's educational program or activity; and
- All materials used to train investigators, adjudicators, and Title IX coordinators with regard to sexual harassment.

The University must make these training materials available on its website or upon request for inspection by members of the public.

Duration

To be in compliance with the Department of Education's regulations as well as the Clery Act, the University will maintain relevant records for seven (7) years.

Access

You have the right to inspect and review the student's education records, upon written request for access, the University has 45 days to complete that request. A student should submit to the registrar, dean, head of the academic department, or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. The school official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the school official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

For more information regarding Family Educational Rights and Privacy Act, see [Related Policies](#).

Interpretation and Revision

Review Process

Any changes or edits made to this policy may proceed through the following review process:

1. Review by the Executive Staff of the University
2. Review (and subsequent approval) by the Board of Trustees of Texas Wesleyan University

This policy will be reviewed annually by the Title IX Coordinator and Deputy Coordinators for Title IX. This policy is subject to change as regulations from the Department of Education are released.

Final Decision Maker

The Board of Trustees of Texas Wesleyan University is the final decision maker.

Date of Approval

The Texas Wesleyan University Board of Trustees Executive Committee convened to approve this policy on August 10, 2020.

Date of Effect

Per the Department of Education, this policy is in effect on August 14, 2020.