

# Equal Opportunity Policies & Hearings

## *Training Materials for Participants*

### Contents

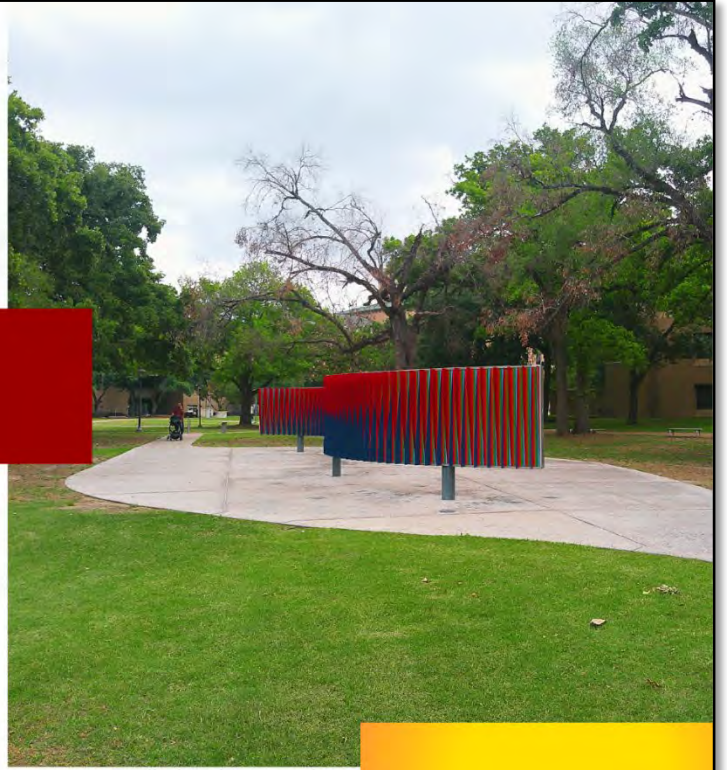
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## Section Three

### SECTION THREE

This section overviews the early stages of reporting a concern, intake review for potential services, and the option to file a formal complaint.

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#### Slide Contents:

This section overviews the early stages of reporting a concern, intake review for potential services, and the option to file a formal complaint.

#### Narrator Notes:

(same as above)

## Content Roadmap (starting section three)

# Learn About the Process

This series will overview the types of concerns covered by EOS policies and the various forms of resolution that may be applicable during EOS review.

1	Introduction to Equal Opportunity Services
2	Definitions of Misconduct Under EOS Policies
3	Preliminary Evaluation and Filing a Complaint
4	After a Formal Complaint: The Investigation Process
5	Understanding the Title IX Officer Hearing Process
6	Understanding the University Panel Hearing Process
7	Hearing Decorum and Preparing for the Hearing



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### Slide Contents:

#### Learn About the Process (Content Roadmap)

This series will overview the types of concerns covered by EOS policies and the various forms of resolution that may be applicable during EOS review.

1. Introduction to Equal Opportunity Services
2. Definitions of Misconduct Under EOS Policies
3. Preliminary Evaluation and Filing a Complaint (you are here about to start this section)
4. After a Formal Complaint: The Investigation Process
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### Narrator Notes:

(same as above)



### Slide Contents:

Options explained during the intake process.

Self-Resolution: Options to address a concern directly, if the person feels safe and comfortable to do so.

Confidential: Support services to help a person regain sense of safety or make up for lost activities.

Informal Requests: Official help to address the concern, such as educational discussion for another person or group.

Formal Complaint: Written request to start a formal investigation and possible disciplinary process against a student or employee.

### Narrator Notes:

Possible paths for resolutions are explained during an intake process with Equal Opportunity staff.

Options may include:

- Self-Resolution (also called Self-Help) to address a concern directly, if the person feels safe and comfortable to do so.
- Confidential support services can help a person regain sense of safety or make up for lost activities.
- Informal requests seek official help to address the concern, such as educational discussion for another person or group.
- Finally, a formal complaint is a written request to start a formal investigation and possible disciplinary process against a student or employee.

According to the Anti-Discrimination Policy, Appendix B section 1(A), "If an individual wishes to formalize a complaint, they will be asked to complete a Formal Complaint Questionnaire with their Equal Opportunity Coordinator." The Sexual Misconduct Policy also describes requirements to file a formal complaint.



### Personal responses to potential misconduct

- ▶ The Complainant may choose to try to address the conduct verbally or in writing.
- ▶ But Complainants are not required to personally address concerns for sexual misconduct or discrimination with the Respondent (the person accused) directly.

Please stop texting me anything about dating, let's keep it professional.

4:32 PM

#### Slide Contents:

The Complainant may choose to try to address the conduct verbally or in writing.

But Complainants are not required to personally address concerns for sexual misconduct or discrimination with the Respondent (the person accused) directly.

Diagram (hypothetical): Text message sent at 4:32 om stating, "Please stop texting me anything about dating, let's keep it professional." Sent at 4:32 PM.

#### Narrator Notes:

Self-Resolution and personal responses to potential misconduct. However, only proceed if you feel safe to do so.

As explained in the Sexual Misconduct Policy section 12.1:

An individual who believes that they are the subject of unlawful Sexual Misconduct may choose to deal with the alleged offender directly through a face-to-face discussion, a personal telephone conversation, e-mail correspondence, or letters. In some cases, this approach may resolve the situation; in others, it may be ineffective or place the individual in an uncomfortable, insecure, or compromised position. Under no circumstances should an individual feel pressured to address the alleged offender directly or handle the matter alone, and a decision not to confront a person alleged to be discriminatory or harassing will not be treated negatively under this Policy.

For instance, consider this hypothetical demo: A text message sent at 4:32 om stating, "Please stop texting me anything about dating, let's keep it professional." The message is in text, preserving a record if needed that contact is unwanted, sent at a time and place where the person is comfortable.

## Forms of Self-Resolution



**Forms of Self-Resolution**

- ▶ Asking the other person to stop the unwanted conduct.
- ▶ Explaining a personal boundary or discomfort to the other person.
- ▶ Telling the person that any communication will be only academic/professional (not personal discussion).
- ▶ Limiting forms of communication (using only UH accounts and not giving cell phone or social media).
- ▶ Blocking, ghosting or reporting an account to the platform for misuse.

**Community members can use services through EOS policies to also safety plan while using forms of self-resolution.**

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**Self-Resolution**

### Slide Contents:

Community members can use services through EOS policies to also safety plan while using forms of self-resolution.

- Asking the other person to stop the unwanted conduct.
- Explaining a personal boundary or discomfort to the other person.
- Telling the person that any communication will be only academic/professional (not personal discussion).
- Limiting forms of communication (using only UH accounts and not giving cell phone or social media).
- Blocking, ghosting or reporting an account to the platform for misuse.

### Narrator Notes:

If the Complainant prefers to attempt self-resolution (also called self-help), they can consider options such as:

- Asking the other person to stop the unwanted conduct.
- Explaining a personal boundary or discomfort to the other person.
- Telling the person that any future communication is expected to be only academic or professional (in other words, not personal topics).
- Limiting forms of communication (using only UH accounts and not giving cell phone or social media).
- Blocking, ghosting or reporting an account to the social media platform for abuse or misuse.

EOS staff may provide concurrent safety planning services for University community members.



### Confidential Service Requests

- ▶ Confidential services from Equal Opportunity offices involve requests not to identify or contact the other person(s) involved in the report.
- ▶ Equal Opportunity staff may limit information about the report to only offices necessary to provide appropriate services.
- ▶ Many (but not all) reports involve a Respondent not affiliated with the University, and Equal Opportunity staff are still able to assess potential support services.

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Confidential Services

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Confidential services from Equal Opportunity offices involve requests not to identify or contact another person involved in the report.

Many (but not all) reports involve a Respondent not affiliated with the University, and Equal Opportunity staff are still able to assess potential support services.

Equal Opportunity staff may limit information about the report to only offices necessary to provide appropriate services.

#### Narrator Notes:

According to section 4.5 of the Sexual Misconduct Policy, "If the University is notified that a member of the University community has reported an incident of Sexual Misconduct, but the University does not have jurisdiction to handle the case, the University will still take reasonable steps to ensure the individual's safety while on campus and to offer the individual information about resources both on campus and in the community."

Confidential services from Equal Opportunity offices involve requests not to contact another person involved in the report. Equal Opportunity staff may limit information about the report to only offices necessary to provide the services. Many (but not all) reports involve a Respondent not affiliated with the University, and Equal Opportunity staff are still able to assess potential support services.





These are examples and additional services may be customized to fit particular concerns and situations as appropriate.

### Sample Confidential Services

- ▶ **Workplace measures:** may include changing location, removing information from directory, screening calls or visitors, safety training for a group, and more.
- ▶ **Academic measures:** may include academic supports such as make-up activities, records changes, safety planning with affected persons, and more.
- ▶ **Auxiliary measures:** may include changing housing location, dining location, study location, parking location and more.

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Confidential Services

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Academic measures: may include academic supports such as make-up activities, records changes, safety planning with affected persons, and more.

These are examples and additional services may be customized to fit particular concerns and situations as appropriate.

#### Narrator Notes:

Confidential measures are private services only involving other University departments as appropriate (not the other person from the concern). Here are some examples (same as above).

## Other Resources

# Other Resources


*Additional confidential services may be available through other campus services.*



**Licensed Counselor**



**Medical Professional**



**Religious/Pastoral**

*For UH students, staff at Sexual Misconduct Support Services provides confidential student advocacy support under Texas state law.*

*\*An employee must be operating in the capacity listed above to be confidential under state law.*

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**Confidential Services**

### Slide Contents:

Additional confidential services may be available through other campus services.

Licensed Counselor, Medical Professional, Religious/Pastoral

For UH students, staff at Sexual Misconduct Support Services provides confidential student advocacy support under Texas state law.

An employee must be operating in the capacity listed above to be confidential under state law.

### Narrator Notes:

Other Resources: Additional confidential services may be available through other campus services.

The University community is not limited to only use the Equal Opportunity Office for confidential resources on campus. Community members may access these resources separately from Equal Opportunity or police services. For instance, the University community may include or provide connections to licensed counseling and medical providers, as well as religious or pastoral resources. For UH students, staff at Sexual Misconduct Support Services provides confidential student advocacy support under Texas state law.

As a reminder, an employee must be operating in the capacity listed above to be confidential under state law.

## What starts a formal complaint?



Dates and locations can be approximate, but must give the Respondent enough information to participate in the process.

### What starts a formal complaint?

- ▶ A report of a concern **does not** automatically start a formal complaint process.
- ▶ If a person expresses the desire to file a formal complaint, Equal Opportunity staff provide them with a copy of the **complaint questionnaire** (a form to collect details of their complaint). The form collects:
  - ▶ Name of respondent, type of allegation(s), details of incident (location, date, facts), potential evidence such as witness names and details about any desired resolution.

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Formal Complaint

#### Slide Contents:

A report of a concern does not automatically start a formal complaint process.

If a person expresses the desire to file a formal complaint, Equal Opportunity staff provide them with a copy of the complaint questionnaire (a form to collect details of their complaint). The form collects:

- Name of respondent, type of allegation(s), details of incident (location, date, facts), potential evidence such as witness names and details about any desired resolution.

Dates and locations can be approximate, but must give the Respondent enough information to participate in the process.

#### Narrator Notes:

What starts a formal complaint?

A report of a concern does not automatically start a formal complaint process.

If a person expresses the desire to file a formal complaint, Equal Opportunity staff provide them with a copy of the complaint questionnaire (a form to collect details of their complaint). Details include name of respondent, type of allegation(s), details of incident (location, date, facts), potential evidence such as witness names and details about any desired resolution. Dates and locations can be approximate, but must give the Respondent enough information to participate in the process.



## What else should we know?



### What else should we know?

- ▶ A Complainant does **not remain anonymous** in a complaint process.
- ▶ The University will evaluate the complaint for whether it will be accepted and proceed under the policy.
- ▶ A University complaint is not a criminal report, and a complaint may continue while a criminal investigation is pending with another agency.
- ▶ Where appropriate, the University may serve as Complainant and consider safety planning for involved parties.

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Formal Complaint

#### Slide Contents:

A Complainant does not remain anonymous in a complaint process.

The University will evaluate the complaint for whether it will be accepted and proceed under the policy.

A University complaint is not a criminal report, and a complaint may continue while a criminal investigation is pending with another agency.

Where appropriate, the University may serve as Complainant and consider safety planning for involved parties.

#### Narrator Notes:

The Sexual Misconduct Policy explains in section 11.8 that, "When a Formal Complaint is signed by the Title IX Coordinator rather than filed by a Complainant, the University is required to send both parties details about the allegations, including the identity of the parties, if known." Therefore, a Complainant does not remain anonymous to the involved Respondent.

The University will evaluate each complaint for whether it will be accepted and proceed under the policy.

A University complaint is not a criminal report, and a complaint may continue while a criminal investigation is pending with another agency.

Where appropriate, the University may serve as Complainant and consider safety planning for involved parties.

According to the Anti-Discrimination Policy Appendix B, section 1(B), "If the alleged Complainant does not wish to pursue a Formal Complaint, The University may determine that it will serve as the Complainant. The decision for the University



to file a complaint with the University as Complainant is not taken lightly" and the policy lists several factors to consider in the process. See also Sexual Misconduct Policy section 11.6 for related factors.



### Emergency Removals

- ▶ Begins with Title IX Coordinator's individualized safety and risk analysis.
- ▶ Evaluates if immediate threat to the physical health or safety of any student, employee, or other person.
- ▶ May justify emergency removal or Leave During Agency Investigation pending further investigation.
- ▶ If Coordinator recommends removal, Respondent receives notice and has the opportunity to challenge immediately (in writing).
- ▶ May apply to both students and employees.

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Evaluates if immediate threat to the physical health or safety of any student, employee, or other person.

May justify emergency removal or Leave During Agency Investigation pending further investigation.

If Coordinator recommends removal, Respondent receives notice and has the opportunity to challenge immediately (in writing).

May apply to both students and employees.

#### Narrator Notes:

According to the Sexual Misconduct Policy section 9.2:

Once the Title IX Coordinator receives a report of an alleged act of Sexual Misconduct, the Title IX Coordinator will undertake an individualized safety and risk analysis to determine whether an immediate threat to the physical health or safety of any student, employee, or other individual arising from the allegations of Sexual Misconduct justifies emergency removal or Leave During Agency Investigation pending further investigation. At the conclusion of the safety and risk analysis, the Title IX Coordinator will make a recommendation for removal to the appropriate office. The appropriate office will provide Respondent with notice and an opportunity to challenge the decision immediately following their removal.

An employee Respondent may be placed on Leave During Agency Investigation, in accordance with the University's policy and procedures on employee Leave During Agency Investigation during the pendency of a grievance process, as outlined in this Policy." This process may apply to a student or employee.

## Complaint Requirements



### Complaint Requirements



**Anti-Discrimination Policy: 180 days filing deadline.**

*No time limit for sexual misconduct complaints but waiting to file may limit evidence or options to address the claim(s).*



**Anti-Discrimination Policy: Provide linking facts to Protected Class**



**Both policies: Sufficient details or facts for a finding under the Policy.**



**Both policies: Respondent was a student or employee of the University at the time of the incident.**



**Both Policies: The University has jurisdiction over the conduct.**

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### Slide Contents:

Anti-Discrimination Policy: 180 days filing deadline.

- No time limit for sexual misconduct complaints but waiting to file may limit evidence or options to address the claim(s).

Anti-Discrimination Policy: Provide linking facts to Protected Class

Both policies: Respondent was a student or employee of the University at the time of the incident.

Both Policies: The University has jurisdiction over the conduct.

Both policies: Sufficient details or facts for a finding under the Policy.

### Narrator Notes:

According to the Anti-Discrimination Policy section 4.5, "To the extent that a concern is raised in an untimely manner (more than 180 calendar days from the last incident of Discrimination or Harassment) it is within the Equal Opportunity office's discretion not to pursue the matter." To qualify under the policy, the complaint must also provide linking facts between the conduct and the Complainant's protected class.

Under the Sexual Misconduct Policy section 14.2.2, "The University does not limit the timeframe for filing a report or Formal Complaint of Sexual Misconduct, although the University's ability to take any action may be limited because of the passage of time."

Both policies also require sufficient details or facts for a finding under the Policy, a Respondent who was a student or employee of the University at the time of the incident, and University jurisdiction.



## Possible Dismissal Reasons



### Possible Dismissal Reasons



University lacks jurisdiction or no longer has control over the Respondent and remedies were offered to the Complainant as appropriate.



An appropriate resolution or remedy has already been achieved.



The Complainant expressly or by action declines to cooperate with the investigation



Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint.



Specific circumstances prevent the University from gathering evidence sufficient to reach a determination.

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### Slide Contents:

University lacks jurisdiction or no longer has control over the Respondent and remedies were offered to the Complainant as appropriate.

An appropriate resolution or remedy has already been achieved.

The Complainant expressly or by action declines to cooperate with the investigation

Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint.

Specific circumstances prevent the University from gathering evidence sufficient to reach a determination.

### Narrator Notes:

According to the Anti-Discrimination Policy Appendix B, section 2, "The Equal Opportunity office reserves the right to not proceed with a Formal Complaint for the following, non-exclusive reasons:

- If the University no longer has jurisdiction over the Respondent and, when appropriate, remedies have been offered to the Complainant;
- If an appropriate resolution or remedy has already been achieved;
- If the Complainant expressly or by action declines to cooperate with the investigation;
- If the complaint on its face does not provide sufficient details or facts for a finding to be made under the Policy;
- If the complaint does not provide facts which link the alleged conduct to a Protected Class category."

That policy also includes a provision for, "If a complaint is not filed timely," but this would not apply to sexual misconduct allegations.

Note though, the Sexual Misconduct Policy section 4.3 states that, "Proceedings may continue even if a party is no longer employed with the University. Per state law, proceedings will continue even if a party is no longer a student of the University."

The Sexual Misconduct Policy also allows for dismissal where, "Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the allegations contained in the Formal Complaint," in section 10.2. Section 10.3 requires the University to dismiss a Title IX complaint that does not meet the jurisdiction requirement, or when the conduct alleged would not constitute a violation.

Complainants may appeal the dismissal of a complaints as detailed in the respective policy. The same process detailed in these materials (with notice to the parties and option to respond by the other party) is also part of an appeal from a hearing.

## Formal Sanctions: Disciplinary Process (Part One)



### Probation (Academic or Employment)

May include training requirements, limits on serving in leadership positions, conditions or restrictions to certain persons or parts of campus, or other conditions as appropriate.

**For a full list of possible sanctions, see the applicable policy.**

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### Slide Contents:

#### Probation (Academic or Employment)

May include training requirements, limits on serving in leadership positions, conditions or restrictions to certain persons or parts of campus, or other conditions as appropriate.

For a full list of possible sanctions, see the applicable policy.

### Narrator Notes:

#### Formal Sanctions: Probation (Academic or Employment)

According to the Anti-Discrimination Policy, Appendix B, section 12(B), "The sanctions for committing an act of Discrimination or Harassment will be commensurate with the offense and may include, but are not limited to, the following Probation (including disciplinary probation), Temporary or permanent ban from campus locations (such as residence hall communities), [and]

Ban from participating in campus organizations or activities."

The Sexual Misconduct Policy includes the same sanctions, plus educational programs such as state-certified batterer's intervention in Appendix B, section 3.5.2 and Appendix C, section 11.5.

Probation may include training requirements, limits on serving in leadership positions, conditions or restrictions to certain persons or parts of campus, or other conditions as appropriate.

For a full list of possible sanctions, see the applicable policy.

## Formal Sanctions: Disciplinary Process (Part Two)



### **Suspension (Academic) Leave Without Pay (Employment)**

Affects the person's access to the University (and its benefits) and becomes a part of the permanent academic transcript or employment record. May include campus trespass warning, revocation of admission, and ban from events, among other conditions.

**For a full list of possible sanctions, see the applicable policy.**

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### **Slide Contents:**

Suspension (Academic)

Leave Without Pay (Employment)

Affects the person's access to the University (and its benefits) and becomes a part of the permanent academic transcript or employment record. May include campus trespass warning, revocation of admission, and ban from events, among other conditions.

For a full list of possible sanctions, see the applicable policy.

### **Narrator Notes:**

Formal Sanctions: Suspension (Academic) and

Leave Without Pay (Employment)

According to the Anti-Discrimination Policy, Appendix B, section 12(B), sanctions may also include, "Disqualification from employment or student leadership positions,

Withholding of transcripts, grades, diploma, or degree,

Partial or full criminal trespass, [and] Suspension from employment and/or enrollment."

Affects the person's access to the University (and its benefits) and becomes a part of the permanent academic transcript or employment record. May include campus trespass warning, revocation of admission, and ban from events.



These types of sanctions may also take effect during a probationary status depending on the review, but may become automatic or a required component of a suspension or leave status.

For a full list of possible sanctions, see the applicable policy.

## Formal Sanctions: Disciplinary Process (Part Three)



### Expulsion (Academic) Termination (Employment)

End of the person's employment at the institution or academic enrollment, which may affect future eligibility for employment or enrollment in the UH System. May include bans from certain activities or trespass warning from campus as appropriate.

**For a full list of possible sanctions, see the applicable policy.**

*A suspension or expulsion sanction may be added to a transcript after a person leaves the University.*

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### Slide Contents:

Expulsion (Academic)

Termination (Employment)

End of the person's employment at the institution or academic enrollment, which may affect future eligibility for employment or enrollment in the UH System. May include bans from certain activities or trespass warning from campus as appropriate.

For a full list of possible sanctions, see the applicable policy.

A suspension or expulsion sanction may be added to a transcript after a person leaves the University.

### Narrator Notes:

According to the Anti-Discrimination Policy, Appendix B, section 12(B), sanctions may also include, "Revocation of admission and/or degree, Termination of employment [and] Expulsion."

These conditions are the end of the person's employment at the institution or academic enrollment, which may affect future eligibility for employment or enrollment in the UH System. They may include bans from certain activities or trespass warning from campus as appropriate.

For a full list of possible sanctions, see the applicable policy.

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## Narrator Notes:

(same as above)