

EO Mandatory Training Transcript

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EO MANDATORY TRAINING • FY2024

Equal Opportunity
and Non-Discrimination Policies



EO Mandatory Training Transcript – FY2024

Slide 1 Narration: Welcome

In the University of Houston System, we are committed to providing equal opportunities and making sure that our community members have a learning and working environment free from discrimination.

Each of our campuses has compliance offices devoted to addressing matters involving equal opportunity and non-discrimination and ensuring compliance with state and federal laws.¹

¹ Each University is required to staff an Equal Opportunity Coordinator for non-discrimination as well as a Title IX Coordinator for sexual misconduct concerns. See SAM 1.D.7 and 1.D.8. Note that federal and state laws also require these staffed positions, *see, e.g.*, 29 C.F.R. 38.28 (requiring federal funding recipients under Workforce Innovation and Opportunity Act to “designate a recipient-level Equal Opportunity Officer” with sufficient staff and resources) and Texas Education Code § 51.290 (requiring institutions to designate “one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972”).



TOPICS

- The UHS Anti-Discrimination Policy
- Reasonable Workplace Accommodations
- Pregnancy and Parenting Reasonable Accommodations
- The UHS Sexual Misconduct Policy
- Mandatory Reporting Obligations under Texas Law
- The UHS Consensual Relationship Policy
- The UHS Electronic Information Resources Accessibility Policy

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Slide 2 Narration: Topics

In this training, we will discuss the following UH System policies and topics:

- Anti-Discrimination Policy;
- Reasonable Workplace Accommodation for Employees with Disabilities Policy;
- Pregnancy and Parenting Student and Employee Accommodation Policy;
- Sexual Misconduct Policy;
- Mandatory Reporting Obligations (as enforced by state law);
- Consensual Relationship Policy; and
- Digital Accessibility per the UHS Electronic and Information Resources Accessibility Policy.

Anti-Discrimination Policy

Discrimination and harassment are antithetical to the standards and ideals of the University of Houston System. The policy covers:



Students



Faculty



Staff



Visitors

We encourage everyone to report concerns about discrimination.

Supervisors have a duty to act and to report concerns related to discrimination under the Anti-Discrimination Policy to the Equal Opportunity Coordinator.

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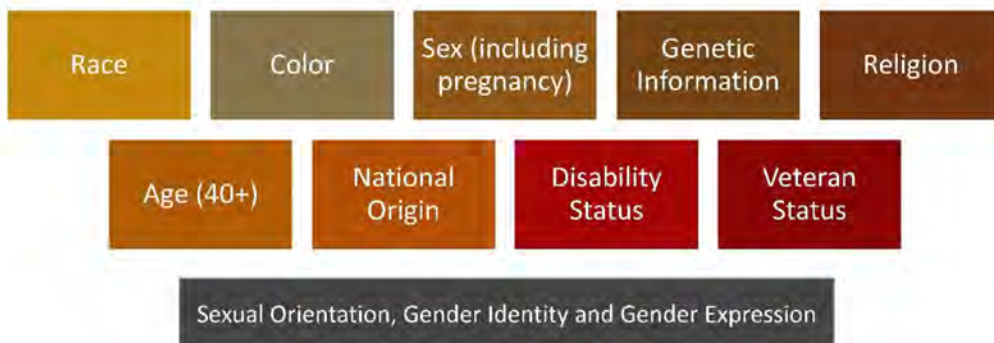
Slide 3 Narration: Anti-Discrimination Policy

Discrimination and harassment are antithetical to the standards and ideals of the University of Houston System.² Each one of our campuses will take appropriate action in an effort to eliminate discrimination and harassment from occurring, prevent its recurrence and address its effects.

Our Anti-Discrimination Policy covers faculty, staff, students and visitors to campus. We encourage everyone to report any behavior that may implicate the Policy, and employees in a supervisory capacity have a duty to act and report concerns under the Anti-Discrimination Policy to the Equal Opportunity Coordinator.

² Multiple laws prohibit discrimination and harassment in the workplace, educational and living environments. See, e.g., 42 U.S. Code § 2000e (Title VII), 34 C.F.R. § 106 (Title IX), 29 U.S.C. § 206(d) and 29 C.F.R. § 1620 (implementing the Equal Pay Act), 29 U.S.C. §§ 621–634 (Age Discrimination in Employment Act), 29 C.F.R. § 1635 (implementing Title II of the Genetic Information Nondiscrimination Act of 2008), 29 U.S.C. § 701 *et seq.* (Rehabilitation Act of 1973), 42 U.S.C. § 12101 (Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008), Texas Labor Code § 21.001 (state code implemented Title VII, ADA, ADEA and related federal legislation) and more.

Anti-Discrimination Policy: Protected Classes



The Anti-Discrimination Policy also prohibits Retaliation.

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Slide 4 Narration: Protected Classes

We are all members of what we call “Protected Classes,” and UH System Policy prohibits unlawful discrimination and harassment against us based on those aspects of our identity. The categories include:

- Race;³
- Color;⁴
- Sex⁵ (including pregnancy⁶);
- Genetic Information, such as knowledge about someone’s family medical history;
- Religion;⁷
- Age, if an individual is 40 or older;⁸

³ See 34 U.S.C. § 12291(b)(13)(A) (banning discrimination in programs and activities that receive VAWA-related federal funding), 42 U.S.C. § 2000e–2 (Title VII regarding employees) and Texas Labor Code § 21.051. See also Texas Education Code § 25.902 (effective September 1, 2023, to prohibit discrimination based on dress or hairstyles commonly or historically associated with race).

⁴ See 34 U.S.C. § 12291(b)(13)(A) and 42 U.S.C. § 2000e–2 and Texas Labor Code § 21.051.

⁵ See, e.g., 34 U.S.C. § 12291(b)(13)(A), 42 U.S.C. § 2000e–2, 34 C.F.R. §§ 106.31 (banning sex discrimination in “any academic, extracurricular, research, occupational training, or other education program or activity”), 106.32 (also banning in housing), 106.51 (employment activities) as well as Texas Labor Code § 21.051.

⁶ See Texas Labor Code § 21.106; *Know Your Rights: Pregnant or Parenting? Title IX Protects You From Discrimination At School*, Office of Civil Rights, U.S. Department of Education (Jan. 2020) (explaining option to file internal complaint with institution, OCR complaint or lawsuit for discrimination under Title IX).

⁷ See 42 U.S.C. § 2000e–2, 34 U.S.C. 12291(b)(13)(A) and Texas Labor Code §§ 21.051 and 21.108.

⁸ See Texas Labor Code § 21.051.

- National Origin;⁹
- Disability;¹⁰
- Veteran Status; and
- Sexual Orientation, Gender Identity, and Gender Expression.¹¹

Retaliation is also prohibited.¹²

⁹ See 42 U.S.C. § 2000e-2, 34 U.S.C. 12291(b)(13)(A) and Texas Labor Code § 21.051.

¹⁰ See 34 U.S.C. § 12291(b)(13)(A) as well as Texas Labor Code §§ 21.051 and 21.128.

¹¹ 34 U.S.C. § 12291(b)(13)(A) (banning discrimination based on gender identity and sexual orientation in programs and activities that receive federal VAWA funding). The U.S. Supreme Court ruled that gender identity is protected under Title VII. *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020) (Stating that “discrimination based on homosexuality or transgender status necessarily entails discrimination based on sex; the first cannot happen without the second.”).

¹² See Texas Labor Code § 21.055.

Anti-Discrimination Policy: Discrimination

What constitutes discrimination?

- Treating an individual or members of a Protected Class less favorably because of their membership in a Protected Class.
- Having a policy or practice that has an adverse impact on members of a Protected Class.

Harassment based upon a protected class is also prohibited under the Anti-Discrimination Policy.

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Slide 5 Narration: Discrimination

What constitutes discrimination?

Under UH System Policy, discrimination means treating an individual or members of a Protected Class less favorably because of their membership in that class.¹³

For example, a manager cannot refuse to promote someone who is eligible for promotion because they are pregnant and will take maternity leave.

Or, an employer cannot choose not to hire a qualified 50 year-old person for a social media management position based on the employer's assumption that their age makes them less familiar with social media.

Another form of discrimination is having a policy or practice that has an adverse impact on members of a Protected Class.¹⁴

For example, if a department has a blanket policy that all employees must work a Saturday shift and it is not essential to the job, the policy could disproportionately impact members of a religion for which Saturday is a religious holy day.

¹³ Specifically, Title VII states that, "It shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a).

¹⁴ See Texas Labor Code § 21.122 describing burden of proof in disparate impact cases, or 42 U.S.C. § 2000e-2(k).

Additionally, favoring individuals based on a protected class could also be a form of discrimination.¹⁵ Assigning **unwarranted** workplace or educational benefits based on protected class constitutes different *positive* treatment and may also be the basis of a discrimination claim.

For example, if a faculty member only agreed to take on female doctoral students, that would be discrimination based on sex or gender.

¹⁵ See *Burlington N. & S. F. R.*, 548 U. S. 53, 59 (2006) (“No one doubts that the term ‘discriminate against’ refers to distinctions or differences in treatment that injure protected individuals.”).

Anti-Discrimination Policy: Harassment

What constitutes harassment?

- Subjecting an **employee** on the basis of their membership in a Protected Class to unwelcome conduct that is severe or pervasive enough to alter the conditions of the employee's employment and create a hostile or abusive working environment; or
- Subjecting a **student** on the basis of their membership in a Protected Class to severe, pervasive, and objectively offensive treatment that denies the student equal access to education.

A minor verbal or nonverbal slight, snub, annoyance, insult or isolated incident is not sufficient to establish Discrimination or Harassment.



Slide 6 Narration: Harassment

Harassment based upon a protected class is prohibited under the Anti-Discrimination Policy.

What constitutes Harassment?

Harassment involving an **employee** means subjecting them based on their Protected Class to unwelcome conduct that is severe or pervasive enough to alter the conditions of the employee's employment and create a hostile or abusive working environment.¹⁶

Harassment involving a **student** means subjecting them based on their Protected Class to severe, pervasive, and objectively offensive treatment that denies the student equal access to education.¹⁷

Some incidents are so severe that their single occurrence can constitute a policy violation. However, a minor verbal or nonverbal slight, snub, annoyance, insult or isolated incident is not sufficient to establish Discrimination or Harassment.¹⁸ If the comments or behaviors occur repeatedly, the totality of the incidents may support a policy violation.

¹⁶ Texas Education Code § 51.251(5)(A) (defining sexual harassment against employees). See also [Harassment](#), U.S. Equal Employment Opportunity Commission (citing Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1990).

¹⁷ See Texas Education Code § 51.251(5)(B) (defining sexual harassment against students).

¹⁸ See [Harassment](#), EEOC (stating "Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality.").

Freedom of Speech and Academic Expression

- UHS institutions are committed to fostering learning environment where free inquiry and expression are encouraged.
- We strive to create a respectful working and learning environment where employees and students can thrive and be successful.
- Speech may be offensive and disagreeable and still be protected by the First Amendment.
- Employees and students have First Amendment free speech rights, but those rights are not absolute.
- Generally faculty members are entitled to freedom in their research, their publication and their teaching in the classroom.

UHS institutions have freedom of expression policies applicable to students, faculty and staff who wish to engage in expressive activities.

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Slide 7 Narration: Freedom of Speech (part one)

The UH System recognizes our community members' free speech rights¹⁹ and freedom of academic expression.²⁰ We recognize that the backbone of academic freedom is maintaining a marketplace of ideas.

When we communicate with our students and colleagues, we strive to engage in respectful discourse.

Employees and students have First Amendment free speech rights, but those rights are not absolute.²¹ Generally, Faculty members are entitled to freedom in their research, their publication and their teaching in the classroom. UH System institutions also have freedom of expression policies applicable to students, faculty and staff who wish to engage in expressive activities.

¹⁹ See Texas Education Code § 51.9315(b)(1) (specifically "recognizing freedom of speech and assembly as central to the mission of institutions of higher education").

²⁰ See Texas Education Code § 51.354(5) (describing institutional responsibility to "protect intellectual exploration and academic freedom.").

²¹ See, e.g., *Garcetti v. Ceballos*, 547 U.S. 410, 419, 422 (2006) (explaining that employees speaking on matters of public concern should only have those restrictions "necessary for their employers to operate efficiently and effectively" but that "Employers have heightened interests in controlling speech made by an employee in his or her professional capacity") and Texas Education Code § 51.9315(c) (requiring higher education institutions to allow any person to engage in expressive activities in common outdoor areas so long as the activities are not unlawful and do not "materially and substantially disrupt the functioning of the institution"). The same provision allows for "reasonable restrictions on the time, place, and manner of expressive activities" if narrowly tailored to a significant institutional interest, using clear, published, content-neutral and viewpoint-neutral criteria with an ample alternate means of expression and allowing for assembly and distribution of written materials without a permit.

Freedom of Speech and Academic Expression

Free Speech rights are not unlimited, for instance:

- As a general rule, employees do not have free speech protection for statements made pursuant to their official duties.
- Free speech is not a defense to conduct or communications that violate the Anti-Discrimination Policy or the Sexual Misconduct Policy.
- Threats of violence and targeted harassment are not protected speech.

Use of denigrating terms relating to a Protected Class, such as racial slurs, against a community member will not be tolerated.

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Slide 8 Narration: Freedom of Speech (part two)

Employees should be mindful when they are speaking for themselves versus the University and make that clear to their audience. Furthermore, faculty and staff are in a position of public trust²² and visibility, which means that their actions will be scrutinized by many people.²³ We urge all of our community members to consider the impact of public trust in providing access to education.

Academic expression and free speech encourage the open debate of ideas, including potentially controversial topics. However, treating community members differently or targeting them based on protected identities is inconsistent with state and federal laws and not permitted as part of an equal learning or work environment. For instance, denigrating terms based on Protected Classes, such as racial slurs, are contrary to our policies and will not be tolerated.

²² See *Garcetti*, 547 U.S. at 419 (“Public employees, moreover, often occupy trusted positions in society. When they speak out, they can express views that contravene governmental policies or impair the proper performance of governmental functions.”).

²³ See *id.* at 422-423 (not reaching academic teaching and scholarship but stating generally that “Official communications have official consequences, creating a need for substantive consistency and clarity. Supervisors must ensure that their employees' official communications are accurate, demonstrate sound judgment, and promote the employer's mission”).



Veteran Protections

- Veteran status is a protected class. Federal and state law also establish protections and preferences for veterans and some eligible family members in the interview process and hiring.
- If the veteran candidate is **equally qualified** for an open position as the other top candidate, the veteran should be hired in the position.
- If another candidate is more qualified (veteran is less qualified), the other candidate should be hired.
- There are additional state regulations on the minimum number of candidates with veteran preference to interview. Consult with Human Resources on how to apply veterans' preference in interviews and hiring.

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Slide 9 Narration: Veteran Protections

Veteran status is a protected class.²⁴ Veteran preferences are outlined in federal and state law, including interview quotas based on the candidate pool size and hiring preferences.

Departments should also consult with the Human Resources department with any questions on application of veterans' preference in interviews and hiring.

If the veteran candidate is equally qualified for an open position as the other top candidate, the veteran should be hired in the position.²⁵ If the other candidate is more qualified, that candidate should be hired based on merit.

There are additional state regulations on minimum number of candidates with veteran preference to interview.²⁶ Consult with Human Resources on how to apply veterans' preference in interviews and hiring.

²⁴ See 38 U.S.C. § 4212 and 41 C.F.R. § 60-300.20 (listing employment activities for non-discrimination).

²⁵ Texas Gov't Code § 657.003 (regarding veteran's preference).

²⁶ See, e.g., Texas Gov't Code § 657.0047 (requiring interview of at least one person qualified for the preference if interviewing six or fewer candidates, 20 percent of interviewees if more than six candidates, or none if no candidates qualifies for the preference).



Employee Disability-Related Accommodations

Under the Americans with Disabilities Act (ADA):

- Employees with disabilities may request reasonable workplace accommodations through the process outlined in the UH System Reasonable Workplace Accommodations for Employees with Disabilities Policy.
- This is an interactive process, led by an ADA Coordinator (or designee) with the employee and the supervisor.
- To learn more about the process, contact your campus' [ADA Coordinator](#).

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Slide 10 Narration: Employee Disability-Related Accommodations

In accordance with the Americans with Disabilities Act, or ADA, employees with disabilities may request reasonable workplace accommodations²⁷ through the process outlined in the UH System Reasonable Workplace Accommodations for Employees with Disabilities Policy.

This is an interactive process²⁸ in which the employee, the employee's supervisor, and the ADA Coordinator (or their designee) review the accommodation request.²⁹ The ADA Coordinator communicates with the employee about the nature of the disability, how the disability impacts the employee's essential job functions, and what reasonable accommodation(s) may be effective. The ADA Coordinator (or their designee) then discusses potential accommodations with the supervisor consistent with the employee's essential job duties.

To learn more about the reasonable workplace accommodation process, contact your campus' [ADA Coordinator](#).

²⁷ For more information, see Texas Labor Code § 21.128 or 42 U.S. Code § 12112(b)(5)(A) (defining a form of discrimination as "not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity").

²⁸ *Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA*, EEOC (Oct. 17, 2002) ("A request for reasonable accommodation is the first step in an informal, interactive process between the individual and the employer.").

²⁹ *Id.* ("The ADA avoids a formulaistic approach in favor of an interactive discussion between the employer and the individual with a disability, after the individual has requested a change due to a medical condition.").

Pregnancy and Parenting Reasonable Accommodations for Employees

- Employees and supervisors may consult with the Title IX office for guidance on appropriate pregnancy-related accommodations under the Pregnant and Parenting Student and Employee Accommodations Policy.
- Supervisors **must contact** the campus Title IX coordinator **before denying** an accommodation request to ensure the University engaged in the appropriate interactive process.
- Employees are not required to provide medical records to their supervisor, and any medical information disclosed as part of the request is treated as confidential per the Policy.
- New federal laws in 2023 may increase available accommodations based on pregnancy for a **temporary** period.
- Employees may also qualify for separate disability-related accommodations.
- Eligible employees may also contact their human or employee relations office to process leave requests under the Family and Medical Leave Policy as a separate request.

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Slide 11 Narration: Pregnancy and Parenting (Employees)

Title IX serves as the basis for pregnancy-related accommodations for students, while additional federal and state regulations protect employees. The UH System Pregnant and Parenting Student and Employee Accommodations Policy was implemented to ensure compliance with these laws. Supervisors should contact their campus Title IX Coordinator before finalizing any denial of a pregnancy-related workplace request.

Employees are not required to provide medical records to their supervisor, and any medical information disclosed as part of the request is treated as confidential per the policy.

In 2023, Congress enacted additional protections under the Pregnant Workers Fairness Act³⁰ which may increase accommodations available to employees for a temporary period.³¹ Employees and supervisors may consult with the Title IX Coordinator for guidance on temporary accommodations.

During pregnancy and after childbirth,³² some employees may also qualify for disability accommodations and may seek workplace accommodations through that process as well.

³⁰ 42 U.S.C. § 2000gg (Pregnant Workers Fairness Act).

³¹ 42 U.S.C. § 2000gg(6)(A) (stating that employees may still qualify for disability protections if “any inability to perform an essential function is for a temporary period”).

³² 42 U.S.C. § 2000gg(4) (defining “known limitation” for possible reasonable accommodation as a “physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions”).

Employees may also request leave as applicable, and may be eligible for Family and Medical Leave.³³ Eligible employees should contact their human or employee relations office to process leave requests per the Family and Medical Leave Act Policy as a separate request.

³³ *See, generally*, 29 U.S.C. § 2601, et seq.

Interactive Process

To recap, what is an interactive process for disability or pregnancy accommodations for employees?

The employee discusses their medical condition and the effects on their essential job duties and responsibilities with the ADA/Title IX Coordinator (or their designee).

The ADA/Title IX Coordinator reviews appropriate documentation for the request.

The ADA/Title IX Coordinator discusses essential job duties and responsibilities with the supervisor.

The ADA/Title IX Coordinator documents the agreed accommodation(s), or informs the employee of their appeal options.

A Supervisor may **approve** a request that does not necessitate a full interactive process as appropriate.

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Slide 12 Narration: Interactive Process

To recap, what is an interactive process³⁴ for disability or pregnancy accommodations for employees?

- The employee discusses their medical condition and the effects on their essential job duties³⁵ with the ADA/Title IX Coordinator (or their designee).
- The ADA/Title IX Coordinator reviews appropriate documentation for the request.
- The ADA/Title IX Coordinator discusses the essential job duties with the supervisor.³⁶
- The ADA/Title IX Coordinator documents the agreed accommodation(s), or informs the employee of their appeal options.

The supervisor may approve a request that does not necessitate a full interactive process as appropriate, such as providing an employee with a larger uniform. For another example, a pregnant employee without a student-facing role requests flexible breaks to stand, stretch and use the bathroom. Their supervisor is not concerned about any effects on

³⁴ See [Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA](#), U.S. Equal Employment Opportunity Commission (Oct. 17, 2002) (stating “A request for reasonable accommodation is the first step in an informal, interactive process between the individual and the employer”).

³⁵ *Id.* (noting “as part of the interactive process, the employer may offer alternative suggestions for reasonable accommodations and discuss their effectiveness in removing the workplace barrier that is impeding the individual with a disability”)

³⁶ If the request would cause undue hardship, the supervisor can present that information to the ADA/Title IX Coordinator. However, undue hardship requires “significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation.” *Id.* This level of hardship must be “unduly extensive, substantial, or disruptive,” or “fundamentally alter the nature or operation of the business,” and must be analyzed on a case-by-case basis. *Id.*

the business workflow, and may approve changes to the employee's routines. If the supervisor is concerned about the business workflow, they should start the interactive process with guidance from the Title IX Coordinator.

Disability-Related Accommodations for Students

System universities strive to eliminate academic barriers that may prevent qualified students with disabilities from obtaining an academic or professional degree. The UHS Student Academic Accommodations Policy provides the process for students to request reasonable academic accommodations.

The steps of the process provides that:

1. Student contacts Student Disability Services Office, provides documentation and meets with staff.
2. The office evaluates requests and shares decision with the student.
3. Student may agree or use process in System policy to request to change the decision.
4. Instructor receives notice of approved accommodation(s).
5. Instructor **must contact** Student Disability Services Office and follow policy to request any change to the accommodation decision.



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Slide 13 Narration: Disability-Related Accommodations for Students

Students with disabilities should initiate requests for academic accommodations³⁷ in accordance with the UH System Student Academic Accommodations Policy; however, the accountability and responsibility of accommodations is shared among faculty, students, administrators, and staff. The steps of the process are as follows:

Step One: The Student contacts the University's Student Disability Services Office, provides any required documentation³⁸ and meets with the staff about the accommodation process.

Step Two: The Student Disability Services Director, Manager or designee evaluates and shares decision with the student.

Step Three: The Student may agree or use process in the policy to request to change the decision.

Step Four: The Instructor receives notice of approved accommodation(s).

Step Five: The Instructor implements the accommodation notice, or they **must request a consultation** with the Student Disability Services Office and follow process in policy to request any change to the accommodation decision.

³⁷ See *Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities*, Office of Civil Rights, U.S. Department of Education (Sept. 2011) (providing sample adjustments such as priority registration, reduced course load, course substitutions, note takers, recording devices, sign language interpreters, extended time for testing, and adaptive software or hardware including screen-reading or voice recognition).

³⁸ *Id.* (describing that an institution may require documentation as proof of disability status).

Disability-Related Accommodations for Students Important Reminders for Faculty

- An instructor **may not unilaterally deny** an academic accommodation included in a Reasonable Academic Accommodations notice.
- Reasonable accommodations for students with disabilities are designed to provide equal access in a manner that does not compromise essential elements of academic programs.



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Slide 14 Narration: Disability-Related Accommodations for Students, Important Reminders for Faculty

Faculty should follow the process outlined above. Remember, an instructor may not unilaterally deny an academic accommodation included in a Reasonable Academic Accommodations notice.

Reasonable accommodations for students with disabilities are designed to provide equal access in a manner that does not compromise essential elements of academic programs.³⁹

³⁹ *Id.* (describing that institutions do “not have to make adjustments that would fundamentally alter the nature of a service, program, or activity”).

Pregnancy and Parenting Reasonable Accommodations for Students

- Pregnancy-related conditions are protected by state and federal law.
- The Pregnant and Parenting Student and Employee Accommodations Policy includes a range of possible accommodations for students.
- For example, a six-week academic pause after childbirth.
- The Pregnant or Parenting student may start an interactive process with the Title IX Office or request Reasonable Accommodation(s) directly from their instructor or activity supervisor.

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Slide 15 Narration: Pregnancy and Parenting (Students part one)

As part of legal protections against sex discrimination, state and federal law protect individuals experiencing pregnancy-related conditions regardless of gender identity.⁴⁰

Students may approach faculty for reasonable academic accommodations,⁴¹ including an academic pause for six weeks after childbirth, which can include temporary full relief from all academic responsibilities.⁴² System policy includes various options for academic accommodation such as make-up assignments,⁴³ extended bathroom breaks, medically-necessary leave, and an option to request an Incomplete so that students are not negatively impacted in their academic progress or financially by pregnancy.

⁴⁰ See, e.g., 34 C.F.R. § 106.21(c) stating that federal funding recipients shall not apply any rule in admissions decisions that treat individuals differently on the basis of sex specifically as to “potential parental, family, or marital status” and shall not discriminate or exclude “any person on the basis of pregnancy” including recovery from pregnancy. See also *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020) (applying “sex” to transgender status).

⁴¹ See Texas Education Code § 51.982(c) (defining reasonable accommodations) and 34 CFR 106.40(b)(4) (requiring conditions related to pregnancy receive at minimum the same options as temporary disabilities).

⁴² See Texas Education Code § 51.982(e) (guaranteeing leaves of absence and re-enrollment).

⁴³ See Texas Education Code § 51.982(d) (providing for excused absences and making up missed work).



Additional Guidance: Pregnancy and Parenting Reasonable Accommodations for Students

- Accommodation requests must be reviewed on a case-by-case basis.
- Faculty should contact the Title IX Coordinator ***before denying*** an accommodation request to ensure the University engaged in the appropriate interactive process.
- **Remember:** Any student medical information must be treated as confidential (and maintained separately from the student's other records).

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Slide 16 Narration: Pregnancy and Parenting (Students part two)

Other accommodations may also be supported⁴⁴ based on an individualized case assessment, and faculty should contact the Title IX Coordinator if they are not sure whether a request should be approved.

Importantly: Any student medical information must be treated as confidential (and maintained separately from the student's other records).

Next, we will consider some hypothetical scenarios. Consider possible protected classes that may be involved in the next examples. Each scenario will include a 15-second pause for you to consider the options.

⁴⁴ See generally 34 C.F.R. § 106.40(b).

Check in

Here is a hypothetical scenario to consider:

- Katya wears hijab as part of religious beliefs, and most people at work respect her religion.
- However, Martin mocks her, leaves food on desk while she is fasting, and calls her names.
- What are Katya's options under the Policy?

Change Jobs

Send Food
Back to Martin

Consult with
HR or the EO
Coordinator

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Slide 17 Narration: Check In Part One

Katya is a devout Muslim who wears the traditional head covering, the hijab. Most of her co-workers are respectful of her religion and do not have a problem with her dress. One co-worker, Martin, however, constantly mocks her for her beliefs, and calls her names. At times when Katya is fasting, Martin keeps putting food on her desk. She is uncomfortable with the situation and sometimes becomes ill with worry and stays at home. What policy option does Katya have in this situation?

Option One: Katya should look for another job since Martin's behavior is making her ill.

Option Two: Katya should tell Martin that he should eat the food, so it won't go to waste.

Option Three: Katya should talk to her supervisor or human resources about Martin's behavior.

[Countdown]

Check in

Here is a hypothetical scenario to consider:

- Katya wears hijab as part of religious beliefs, and most people at work respect her religion.
- However, Martin mocks her, leaves food on desk while she is fasting, and calls her names.
- What are Katya's options under the Policy?



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[Slide 18 Narration: Check In Part One \(answer\)](#)

Katya can consult with her supervisor, HR or the EO Coordinator for a concern based on religion. Her supervisor or human resources can listen to her concerns and help Katya decide whether to file a complaint, or have someone else step in to address professionalism concerns in other ways if that is more comfortable. Her supervisor or HR should consult with the EO Coordinator to make sure negative treatment does not continue. Allegations regarding discrimination, harassment, and/or retaliation should be promptly reported, investigated, and then corrective action taken.

Check in

Here's another hypothetical scenario to consider:

- Seth is Korean-American and his coworker John constantly asks about martial arts, does karate chops around Seth and calls him names.
- Seth approaches his supervisor about the unwanted behavior, which John defends as just fun and teasing.
- How could the supervisor manage the situation?

Do nothing, it's an overreaction.

Counsel John on the Policy and professionalism.

Transfer Seth to avoid conflict.

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Slide 19 Narration: Check In Part Two

Here is another hypothetical scenario. Seth is Korean-American. His co-worker John continually asks him if he knows martial arts. John makes karate chops whenever he sees Seth and calls him action-movie inspired names. Seth has told John repeatedly that he finds his behavior and comments offensive, but John always says that he is "just teasing; it's all in good fun." Seth recently told his supervisor that he wished that John would stop. Seth has asked his supervisor to manage the situation with John. How should Seth's supervisor handle his complaint about John's behavior?

Option One: Do nothing. John is just teasing. Seth is overreacting.

Option Two: Counsel John about the Policy regarding professional expectations.

Option Three: Transfer Seth into a different department away from John.

[Countdown]

Check in

Here's another hypothetical scenario to consider:

- Seth is Korean-American and his coworker John constantly asks about martial arts, does karate chops around Seth and calls him names.
- Seth approaches his supervisor about the unwanted behavior, which John defends as just fun and teasing.
- How could the supervisor manage the situation?

Do nothing, it's an overreaction.

Counsel John on the Policy and professionalism.

Transfer Seth to avoid conflict.

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Slide 20 Narration: Check In Part Two (answer)

John's behavior borders on bullying and harassment. The jokes and gestures had racial content and the supervisor should address John's behavior, not Seth's. The supervisor has a duty under the Policy to prevent discrimination, such as by advising John about professionalism and monitoring the situation to make sure there is not escalation. The supervisor should consult with the EO Coordinator if they have any concerns for addressing the situation.

Check in

Let's try one more.

Which of the following could be considered reasonable accommodations?

A Standing
Desk

Text-to-Speech
Software

Reduction in
Essential
Duties

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Slide 21 Narration: Check In Part Three

Let's try one more question.

Which of the following could be considered reasonable accommodations?

- Option One: Standing desk for chronic back pain.
- Option Two Screen reader or text-to-speech programs for vision conditions.
- Option Three: Removing some essential duties from a position.

Check in

Let's try one more.

Which of the following could be considered reasonable accommodations?



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Slide 22 Narration: Check In Part Three (answer)

A standing desk could be one way to accommodate a medically diagnosed chronic back condition.

A screen reader is also correct and could be one way to accommodate an employee with limited or no vision — if these accommodations help an employee perform the essential functions of their job.

However, removing an employee's essential duties is not a correct answer. The supervisor should use the interactive process with the ADA coordinator to determine if an alternate accommodation is available, or if a denial may be appropriate (with opportunity for the employee to appeal).



Sexual Misconduct Policy

We are a community that cares!

- Consent at UH is **Affirmative Consent**, expected at all stages of sexual activity and should not be assumed.
- Equal Opportunity staff facilitate preventative education efforts, connect faculty, staff, and students to support resources, and enforce the UH System Sexual Misconduct Policy.
- Rules related to sexual misconduct derive from federal law prohibiting sex discrimination.

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Slide 23 Narration: Sexual Misconduct Policy

We are a community that cares!

At the University, students are educated to seek affirmative consent to engage in sexual activity. With affirmative consent, it is clear to the participants that sexual activities are freely entered into (without violence, force or threats⁴⁵) by informed individuals who have the capacity to consent.⁴⁶ Affirmative consent is shown in an active, positive way either verbally or physically. The person starting the sexual activity has the responsibility to ensure consent for the activity. Consent should be present throughout an activity for both persons, and not assumed. Visit the Sexual Misconduct Policy for even more information about consent.

A person is incapacitated and cannot consent to sexual activity if they are unconscious or otherwise unable to resist,⁴⁷ unaware that sexual activity is occurring,⁴⁸ or don't have legal capacity.⁴⁹

The UH System recognizes the impact that sexual misconduct can have on someone whether taking place on- or off-campus. Equal Opportunity staff facilitate preventative education efforts, connect faculty, staff, and students to support resources, and enforce the UH System Sexual Misconduct Policy.

⁴⁵ See Texas Penal Code § 22.011(b)(1) and (2) (establishing lack of consent where there is force, violence or threat of either), as well as Texas Penal Code § 22.011(b)(7) (also including threats against other persons).

⁴⁶ See 34 U.S.C. § 12291(a)(29) (providing consent definition that includes lack of capacity).

⁴⁷ Texas Penal Code § 22.011(b)(3).

⁴⁸ Texas Penal Code § 22.011(b)(5).

⁴⁹ See, e.g., Texas Penal Code § 22.011(b)(4) (providing consent may be lacking based on mental conditions), § 22.011(b)(6) (involving administration of substances), and § 22.011(c)(1) (involving person under age seventeen in Texas).

Our policies and procedures are derived from federal law under Title IX as well as similar state regulations, to prevent and address sex discrimination.

Sexual Misconduct & Federal Regulations

- In August 2020, federal rules went into effect that provide specific definitions and procedures for responding to certain types of “Title IX” sexual misconduct.
- In the UHS Sexual Misconduct Policy, “Title IX” sexual misconduct, as defined by the new federal rules, and other forms of sexual misconduct are prohibited.
- We prioritize the safety and wellbeing of UHS community members and take all reports of sexual misconduct seriously.

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Slide 24 Narration: Sexual Misconduct & Federal Title IX Regulations

In August 2020, new federal rules went into effect that provide specific definitions and procedures for responding to certain types of sexual misconduct under Title IX.⁵⁰

In the UHS Sexual Misconduct Policy, “Title IX” sexual misconduct, as defined by the new federal rules, as well as other forms of sexual misconduct are prohibited.

For example, the 2020 Regulations excluded incidents occurring during a study abroad from the definition of “Title IX” sexual misconduct,⁵¹ but the UH System continues to address allegations of sexual misconduct in study abroad programs as other forms of prohibited sexual misconduct. The UH System prioritizes the safety and wellbeing of UHS community members and takes all reports of sexual misconduct seriously.

⁵⁰ See 34 U.S.C. § 106 et. seq.

⁵¹ See 34 U.S.C. § 106.44(a) (setting requirement for activities to happen against person in United States).

Title IX Coordinator

- Each UHS campus designates a [Title IX Coordinator](#) as part of System Equal Opportunity Services who:
- Oversees the implementation of the UH System Sexual Misconduct Policy.
- Provides community members with information about their rights and resources.
- Ensures a prompt and equitable process for all involved parties.
- Evaluates whether alleged misconduct falls under Title IX.



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Slide 25 Narration: Title IX Coordinator

Your campus' [Title IX Coordinator](#) oversees the implementation of the UH System Sexual Misconduct Policy.⁵² Your Title IX Coordinator provides community members with information about their rights and resources available to them and ensures a prompt and equitable process for all involved parties. Only the Title IX Coordinator has authorization to investigate alleged sexual misconduct violations and determine whether an incident falls under Title IX or another section of the Sexual Misconduct Policy.

⁵² See Texas Education Code § 51.290(1)(A) (requiring designation of “responsible employees for purposes of Title IX”) and 34 C.F.R. § 106.8 (stating as to Title IX that “Each [federal funding] recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited[.]”)

Equal Opportunity Process

Each campus also designates an Equal Opportunity Coordinator as part of System Equal Opportunity Services to address other discrimination concerns.

Community members may contact their Title IX/Equal Opportunity Coordinator for options and remedies such as to:

- Have confidential consultation and ask questions about UH System policies,
- Document concerns for preliminary review of possible discriminatory patterns,
- Discuss options for requesting an academic, living or workplace accommodation,
- Connect to community resources and request support measures such as safety planning, mental health counseling, educational department meetings and more,
- Seek University action, such as preliminary or formal investigation, or an informal resolution.

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Slide 26 Narration: Equal Opportunity Process

Each campus also designates an [Equal Opportunity Coordinator](#) as part of System Equal Opportunity Services to address other discrimination concerns.

For more information and services, contact your campus' Title IX or Equal Opportunity Coordinator to:

- Have confidential consultation and ask questions about UH System policies,⁵³
- Document concerns for preliminary review of possible discriminatory patterns,
- Discuss options for requesting an academic, living or workplace accommodation,⁵⁴
- Connect to community resources and request support measures such as safety planning, mental health counseling, educational department meetings and more,⁵⁵
- Seek University action, such as preliminary or formal investigation, or an informal resolution.⁵⁶

⁵³ 34 U.S.C. § 106.30(a) ("The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures.").

⁵⁴ See 34 U.S.C. § 106.30(a) (listing supportive measures such as "extensions of deadlines or other course-related adjustments, modifications of work or class schedules, . . . changes in work or housing locations, [and] leaves of absence").

⁵⁵ See 34 U.S.C. § 106.30(a) ("listing other supportive measures such as "counseling, campus escort services, mutual restrictions on contact between the parties, . . . increased security and monitoring of certain areas of the campus, and other similar measures")

⁵⁶ 34 U.S.C. § 106.45(b)(9) (noting that "at any time prior to reaching a determination regarding responsibility the recipient may facilitate an informal resolution process" but may not do so for allegations of sexual harassment against a student by an employee).

Equal Opportunity Investigations

All persons have the right to a learning, living and working environment free from discrimination or harassment, and may submit a report to share concerns about discrimination or sexual misconduct.

The UHS Sexual Misconduct Policy and/or the UHS Anti-Discrimination Policy may apply.

During Equal Opportunity Investigations under either policy:

- Parties may seek informal services or file a complaint for policy violations.
- Parties have the right to meet with EOS staff, submit evidence, suggest possible witnesses, and formalize with a complaint if concerns are not resolved.
- **Both parties** (Complainants and Respondents) have certain rights in an anti-discrimination or sexual misconduct formal investigation.

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Slide 27 Narration: Equal Opportunity Investigations

All persons have the right to a learning, living and working environment free from discrimination or harassment, and may submit a report to share concerns about discrimination or sexual misconduct.

Every campus has a link in the banner at the bottom of their website to “Sexual Misconduct Reporting and Awareness” as a shortcut to make an online report.

Equal Opportunity staff can provide individuals with information about their rights under the UHS Anti-Discrimination Policy and/or the UHS Sexual Misconduct Policy in an anti-discrimination or sexual misconduct investigation.

Parties may seek support information and resources, even if they experience conduct off-campus from someone outside the University. They may also file a complaint under System policy for discriminatory or harassing conduct by a member of the University community.

Parties have the right to request to meet with staff about their concern, submit evidence and/or witness names, and file a complaint for unresolved concerns. Parties can give input on desired resolutions and under some circumstances may agree to a resolution as provided in the applicable policy.

A Complainant is the party alleging discrimination, harassment or sexual misconduct happened to them.⁵⁷ A

Respondent is the party a complainant names as responsible for the alleged discrimination, harassment or sexual misconduct.⁵⁸

⁵⁷ See, e.g., 34 U.S.C. § 106.30(a) (“Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.”).

⁵⁸ See *id.* (“Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.”)

First let's review the types of sexual misconduct violations that may lead to a formal complaint, and then we will talk about the options for the parties during a formal complaint.

Sexual Misconduct Violations



Retaliation based on a protected activity under the Policy is also prohibited.

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Slide 28 Narration: Sexual Misconduct Violations

We turn now to the UH System Sexual Misconduct Policy, which defines seven categories of prohibited behavior:

- Sexual Assault,
- Dating and Domestic Violence,
- Stalking,
- Sexual Harassment,
- Non-consensual Sexual Contact,
- Sexual Intimidation, and
- Sexual Exploitation.

Retaliation based on a protected activity under the Policy is also prohibited.⁵⁹

We will review each category in turn.

⁵⁹ Texas Education Code § 51.286(3) (requiring protection from retaliation for sexual misconduct process).

Sexual Assault

Sexual Assault is intercourse that occurs without consent, including:

- Penetration, however slight, of an orifice (anal, vaginal, oral) with the vulva, anus, or mouth, by a penis, finger, or other object;
- Other acts of oral sex or anal stimulation; or
- Knowingly exposing a person to and/ or transmitting a sexually-transmitted infection or HIV/ AIDS to another person.

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Slide 29 Narration: Sexual Assault

Sexual Assault⁶⁰ is sexual intercourse that occurs without consent, including:

- Penetration, however slight, of an orifice (anal, vaginal, oral) with the vulva, anus, or mouth, by a penis, finger, or other object;⁶¹
- Other acts of oral sex or anal stimulation; or
- Knowingly exposing a person to and/or transmitting a sexually-transmitted infection or HIV/AIDS to another person.

⁶⁰ See 34 U.S.C. § 12291(a)(29) (defining sexual assault as “any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent”).

⁶¹ Texas Penal Code § 22.011(a)(1).

Dating and Domestic Violence

Dating and Domestic Violence is violence committed by a person who is or has been in a romantic or intimate relationship with the other party. Examples may include:

- Current and former spouses and dating partners
- Individuals who share a child together
- Family relationship as defined by state law
- Household members (i.e. roommates)

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Slide 30 Narration: Dating and Domestic Violence

Dating and Domestic Violence⁶² is violence committed by a person who is or has been in a romantic or intimate relationship with the other person.⁶³

Examples include romantic partners and those sharing a child together. Violence against former dating partners⁶⁴ and spouses is covered by the Sexual Misconduct Policy. State law also incorporates family relationships and household relationships as forms of domestic violence.⁶⁵

⁶² 34 U.S.C. § 12291(a)(8)(defining as “felony or misdemeanor crimes 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 receiving grant monies, or 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”).

⁶³ See 34 U.S.C. §12291(a) (11) and (12) as well as Texas Family Code § 71.0021 (defining an act of dating violence as one “intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim or applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault” and excluding acts of self-defense).

⁶⁴ 34 U.S.C. § 12291(a)(10) (defining Dating Violence as “violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim”).

⁶⁵ See Texas Penal Code § 25.07 (“‘Family violence,’ ‘family,’ ‘household,’ and ‘member of a household’ have the meanings assigned by Chapter 71, Family Code.”) and Texas Family Code § 71.004 (defining “family violence” as (1) “an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself,” (2) abuse of a child in the family or household or (3) dating violence).

The existence of a dating relationship is determined based on factors such as the length of relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.⁶⁶

⁶⁶ 34 U.S.C. § 12291(a)(9) and Texas Family Code § 71.0021(b).



Stalking

Stalking is engaging in a course of conduct, including online behavior, directed at a specific person that would cause a reasonable person to:

- Fear for their safety and/ or the safety of others; or
 - Suffer substantial emotional distress.
- 

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Slide 31 Narration: Stalking

Stalking, including cyber stalking, is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for their safety and/or the safety of others; or suffer substantial emotional distress.⁶⁷

In order to be a course of conduct, there must be two or more incidents to show a pattern. A single incident may qualify as another form of harassment depending on severity, or as sexual intimidation.

⁶⁷ 34 U.S.C. § 12291(a)(30) (defining stalking as “engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress”).

Criteria for Sexual Harassment

For Harassment under the UH System Sexual Misconduct Policy:

- Federal law includes additional requirements for harassment to meet the definition of “Title IX” sexual harassment.
- Generally, Sexual Harassment subjects an individual to severe, pervasive and/or persistent treatment.
- Note that Quid Pro Quo Sexual Harassment requires that an aid, benefit, or service of the University is conditioned on an individual’s participation in unwelcome sexual conduct.

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Slide 32 Narration: Criteria for Sexual Harassment

Let’s now consider Harassment under the UH System Sexual Misconduct Policy.

Federal law includes additional requirements for harassment to meet the definition of “Title IX” sexual harassment, which must be objectively offensive.⁶⁸

UH System prohibits “Title IX” sexual harassment and other forms of sexual harassment under the UHS Sexual Misconduct Policy that subject an individual to severe, pervasive and/or persistent treatment.⁶⁹

Sometimes people refer to Quid Pro Quo when talking about sexual harassment. **Quid Pro Quo** Sexual Harassment requires that an aid, benefit, or service of the University is conditioned on an individual’s participation in unwelcome sexual conduct.⁷⁰

For example, if a hiring manager told a candidate they would get a job if they went on a date with them, that would be a form of Quid Pro Quo Sexual Harassment.

Now, let’s discuss other forms of sexual harassment in more detail.

⁶⁸ 34 U.S.C. § 106.30(a) (requiring conduct either involve an “employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct, or 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 recipient’s education program or activity”).

⁶⁹ Texas Education Code §§ 51.251(5)(B) and 51.281(4).

⁷⁰ See 34 U.S.C. § 106.30(a).



Conditions of Harassment

Harassment can occur over a pattern or series of events, unless the incident is severe single incident. ***Isolated minor incidents*** such as individual snubs or insults will not be sufficient to show harassment.

Sexual harassment may include:

- Humiliating, abusive, or threatening conduct or behavior that denigrates or shows hostility or aversion toward an individual or group;
- An intimidating, hostile or abusive learning, living or working environment, or an environment that alters the conditions of learning, living or working; **or**
- An unreasonable interference with an individual's academic or work performance.

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Slide 33 Narration: Conditions of Harassment

Harassment can occur over a pattern or series of events, unless the incident is severe.

Remember, a minor verbal and nonverbal slight, snub, annoyance, insult or isolated incident, is not sufficient to establish Discrimination or Harassment.

Sexual harassment may include:

- Humiliating, abusive, or threatening conduct or behavior that denigrates or shows hostility or aversion toward an individual or group;
- An intimidating, hostile or abusive learning, living or working environment, or an environment that alters the conditions of learning, living or working; or
- An **unreasonable interference** with an individual's academic or work performance that may effectively deny a person equal access to the University's Education Program or Activity.⁷¹
 - In the employment setting, Sexual Harassment includes an unwelcome sexual advance, a request for sexual favor, or any other verbal or physical conduct of a sexual nature if the conduct (1) is made a term or condition of an individual's employment (explicitly or implicitly); (2) is used as the basis for a decision affecting the individual's employment; (3) unreasonably interferes with an individual's work performance; or (4) creates an intimidating, hostile, or offensive working environment.⁷²

Inappropriate behavior that does not rise to this level may still be addressed, and should be reported before it escalates to harassment prohibited by UHS policy.

⁷¹ See 34 U.S.C. § 106.30(a) (including definition of sexual harassment).

⁷² Texas Labor Code § 21.141(2).



Non-consensual Sexual Touching

Non-consensual Sexual Touching is intentional touching in a sexual manner, however slight or momentary, or the use of an object to touch another in a sexual manner, including:

- Unwanted touching of a sexual nature; or
 - Use of force or intimidation to make someone else engage in non-consensual sexual touching.
- 

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Slide 34 Narration: Non-consensual Sexual Touching

Now we will discuss other policy violations which are forms of sexual harassment, starting with non-consensual sexual touching.

Non-consensual Sexual Touching is a form of sexual harassment that consists of any intentional touching in a sexual manner, however slight or momentary, or the use of an object to touch another in a sexual manner, including:

- Unwanted touching of a sexual nature; or
- Use of force or intimidation to make someone else engage in non-consensual sexual touching.⁷³

⁷³ See also Texas Penal Code § 22.01(a)(3) (prohibiting assault by offensive physical contact).

Sexual Intimidation

Sexual Intimidation involves threatening another with behavior of a sexual nature, such as:

- Indecent exposure ("flashing" or public masturbation)
- Transmitting or displaying a nude image where the action was unsolicited and a reasonable person would feel threatened or intimidated

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Slide 35 Narration: Sexual Intimidation

Sexual Intimidation is a form of sexual harassment that involves threatening another with behavior of a sexual nature.

Examples of this include, but are not limited to, engaging in indecent exposure (a.k.a. "flashing" or public masturbation).⁷⁴ It may also include transmitting or displaying a nude image where the action was unsolicited and a reasonable person would feel threatened or intimidated.⁷⁵

⁷⁴ See also Texas Penal Code § 21.07 (a) (prohibiting public lewdness) and § 21.08 (prohibiting indecent exposure).

⁷⁵ See also Texas Penal Code § 21.08 (prohibiting indecent exposure) and § 21.19 (prohibiting unlawful electronic transmission of sexually explicit visual material including with exposure of intimate parts or covered male genitals in a "discernibly turgid state").

Sexual Exploitation

Sexual Exploitation occurs when a party takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, such as:

- Distributing intimate pictures of someone without their consent, even if the images were shared consensually, such as “revenge porn,”
- Recording or photographing an intimate situation without consent,
- Voyeurism, or
- Sex trafficking.

All of these examples are also potential crimes in Texas. Students may not be aware that sending nude images without consent can be charged as a felony in Texas.

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Slide 36 Narration: Sexual Exploitation

Sexual Exploitation is a form of sexual harassment that occurs when a party takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples can include, but are not limited to, the following:

- Distributing intimate pictures of someone without their consent, even if the images were shared consensually, such as “revenge porn”;⁷⁶
- Recording or photographing someone in an intimate situation without their consent;⁷⁷
- Voyeurism;⁷⁸ or
- Sex trafficking.⁷⁹

The conduct types on this slide are not only policy violations, but in many cases potential felony charges in Texas. Students may have been exposed to online dating and sexting from an early age without realizing potential negative

⁷⁶ See Texas Penal Code § 21.18(b) and (c) (prohibiting threats including coercion or extortion in order to obtain intimate visual material or another sexual act).

⁷⁷ See Texas Penal Code § 21.15 (prohibiting invasive visual recordings to include both an original photo or video recording as well as any broadcasting, transmission, or promotion of the recording).

⁷⁸ See Texas Penal Code § 21.17.

⁷⁹ See Texas Penal Code § 20A.02.

consequences. Possessing nude images of anyone under age 18 would be potential child pornography,⁸⁰ and improper use of nude images of a person at any age can be charged as a felony in Texas.⁸¹

⁸⁰ See 18 U.S. Code § 2252 (regarding certain activities relating to material involving the sexual exploitation of minors) and Texas Penal Code § 43.26.

⁸¹ See Texas Penal Code § 21.15.

The Formal Complaint Process

Community members may request informal services regardless of whether they file an Equal Opportunity formal complaint.

Summary of Equal Opportunity Grievance Processes once a formal complaint is accepted:

- Notice to Respondent(s),
- Opportunity for all parties to participate and have advisors,
- Draft investigation report shared with parties based on *preponderance of the evidence*,
- Possible agreed resolutions in some cases,
- Option to comment on draft report and to appeal outcome, and
- Possible sanctions (such as probation, required training, suspension, termination or expulsion and more).

For more information, please do not hesitate to contact your campus's Title IX & Equal Opportunity Coordinator.

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Slide 37 Narration: The Formal Complaint Process

Now that you know the types of conduct prohibited by Equal Opportunity policies, let's turn to the processes in place to formally address them.

The Equal Opportunity process begins with a report of a concern. Equal Opportunity staff then seek to identify the affected community member(s) and provide information about the formal complaint process⁸² and other options and resources. Community members may also come forward to request support services⁸³ or ask questions about the policy. They may also ask Equal Opportunity staff to conduct an informal, preliminary review.

Community members may file a formal complaint⁸⁴ against another University community member alleging discriminatory conduct or sexual misconduct.

Once a formal complaint is accepted, Equal Opportunity staff provide notice to the Respondent, and both parties have equal rights to participate in the process.⁸⁵ For example, each can have an advisor in the process⁸⁶ and receive a copy of the draft investigation report.

⁸² See 34 U.S.C. § 106.45(b) (outlining Title IX grievance process).

⁸³ 34 U.S.C. § 106.30(a) (giving examples of supportive measures).

⁸⁴ 34 U.S.C. § 106.30(a) (outlining requirements for a federal Title IX complaint).

⁸⁵ Texas Education Code § 51.286(1) and (2) (detailing option to provide evidence or witnesses as well as have reasonable and equitable access to all relevant evidence”).

⁸⁶ 34 U.S.C. § 106.45(b)(5)(iv) (enforcing right of each party to have same option for accompaniment in process).

The draft report will apply the preponderance of the evidence standard, which means that to find a violation, it must be more likely than not that the Respondent committed a policy violation based on the evidence, which is summarized in the report.

Parties can give input on desired outcomes and under some circumstances may agree to a resolution as provided in the policy.⁸⁷ Agreements might include extended no-contact orders, required training, further monitoring and more.

Before the investigation report is finalized, parties have the option to comment on the draft report.⁸⁸ At the conclusion of an investigation, parties also have the opportunity to appeal.⁸⁹

Potential sanctions⁹⁰ (such as probation, required training, suspension, termination or expulsion and more) are listed in the policy.

For more information, please do not hesitate to contact your campus's Title IX & Equal Opportunity Coordinator.

⁸⁷ 34 U.S.C. § 106.45(b)(9) (except not allowing informal resolutions for employee accused of Title IX sexual misconduct against a student).

⁸⁸ 34 U.S.C. § 106.45(b)(5)(vii) (requiring draft investigative report summarizing relevant evidence and shared with the involved parties "for their review and written response").

⁸⁹ See 34 U.S.C. § 106.45(b)(1)(viii).

⁹⁰ See 34 U.S.C. § 106.44(a) (distinguishing supportive measures from sanctions after a disciplinary process).

Mandatory Reporting

Texas Law requires all university employees to report incidents of sexual harassment, sexual assault, dating violence, and stalking.

All employees must promptly report to the Title IX Coordinator all information they receive in the course and scope of their employment regarding incidents that:

- They reasonably believe may constitute a violation of the Sexual Misconduct Policy, and
- Was committed **by or against** a member of the University community (enrolled student or employee) at the time of the incident.

Employees do not have to investigate or have all the facts to make the report. State law includes information witnessed first-hand, received second-hand, as well as overheard, even "just a rumor."

Community members should also report historical situations that may continue to affect students and employees.

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Slide 38 Narration: Mandatory Reporting

Texas Law requires all university employees to report incidents of sexual harassment, sexual assault, dating violence, and stalking.⁹¹

All employees must promptly report to the Title IX Coordinator observations they witness or information they receive while in the course and scope of their employment regarding incidents that:

- They reasonably believe may constitute a violation of the Sexual Misconduct Policy, and
- Were committed by or against a member of the University community, a student enrolled or employee employed, at the time of the incident.

This includes information directly witnessed, received first-hand, heard or overheard second-hand, and even information that may be "just a rumor."

Community members should also report historical situations that continue to affect students and employees so they may be connected to supportive resources. For example, if a student discloses that they were sexually abused as a child at a summer festival 12 years ago, they may need support from counseling and other services.

⁹¹ See Texas Education Code § 51.252(a).



Failure to Report

The State of Texas has imposed mandatory consequences for failure to report or knowingly making a false report, including **mandatory termination**, regardless of tenure status. Further:

- An employee who is required to make a report and knowingly fails to make the report, or with the intent to harm or deceive knowingly makes a report that is false, may also be charged with a Class B misdemeanor, which is punishable by a maximum of 180 days in jail and/or a maximum fine of \$2,000.
- If it is shown at trial that the employee intended to conceal the incident, the offense may be escalated to a Class A misdemeanor, which is punishable by up to one year in jail and/ or a maximum fine of \$4,000.

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Slide 39 Narration: Failure to Report

The State of Texas has imposed mandatory consequences⁹² for failure to report or knowingly making a false report, including mandatory termination, regardless of tenure status.

An employee who is required to make a report and knowingly fails to make the report, or with the intent to harm or deceive knowingly makes a report that is false, may also be charged with a Class B misdemeanor, which is punishable by a maximum of 180 days in jail and/or a maximum fine of \$2,000.⁹³

If it is shown at trial that the employee intended to conceal the incident, the offense may be escalated to a Class A misdemeanor, which is punishable by up to one year in jail and/or a maximum fine of \$4,000.⁹⁴

⁹² Texas Education Code § 51.255(c).

⁹³ Texas Education Code § 51.255(a).

⁹⁴ Texas Education Code § 51.255(b).



Confidentiality from Reporting

Texas law narrowly defines a few exceptions to these reporting requirements.

- Public awareness or speak-out events, such as Take Back the Night
- Employees who experienced the sexual misconduct (i.e. victim of the incident)
- Mental health counselors, healthcare professionals, clergy, and sexual misconduct support offices (i.e. Confidential Resource Employees as designated in the System Policy).
- Confidential Resource Employees are still expected to provide de-identified general data for campus safety mandated public reporting.

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Slide 40 Narration: Confidentiality from Reporting

Texas law narrowly defines a few exceptions to these reporting requirements.

If an employee attends or participates in a public awareness or speak-out event,⁹⁵ such as Take Back the Night, they are not required to report information shared during that event.

Employees who are victims of sexual misconduct are not required to self-disclose that experience to their Title IX Coordinator;⁹⁶ however, the University encourages employees who have experienced sexual misconduct to seek out University or community resources.

In addition, mental health counselors, healthcare professionals, clergy, and sexual misconduct support offices are considered confidential resource employees when acting in that capacity as part of their job duties.⁹⁷ Confidential Resource Employees⁹⁸ are still expected to provide de-identified general data for campus safety mandated public reporting.⁹⁹

⁹⁵ Texas Education Code § 51.252(d)(2).

⁹⁶ Texas Education Code § 51.252(d)(1).

⁹⁷ Texas Education Code § 51.252(c).

⁹⁸ Texas Education Code § 51.290(1)(B) (requiring designated employees “to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking”).

⁹⁹ Texas Education Code § 51.252(c) (stating that while “making a report under this section, [they should] state only the type of incident reported and may not include any information that would violate a student’s expectation of privacy.”). The regulation also provides that it does not affect any other reporting laws. *Id.*

Student employees are not mandated to report incidents of sexual misconduct under Texas law.¹⁰⁰ Be mindful, however, that some student employees, such as Resident Advisors and Teaching Assistants, may still be required to report those incidents of sexual misconduct under UH System Policy.

¹⁰⁰ Texas Education Code § 51.251(3).

Check in

Consider the following Hypothetical Situation:

- Assistant director is working on a remodel plan for office space.
- Academic advisor privately shares with assistant director preference for private office due to unwanted coworker advances.
- Academic advisor is worried to share space with coworker daily.
- The assistant director tells their director about the concerns. The director tells them not to worry about it and that the director will take care of it.

What do you think the assistant director should do? Does the information shared include any concerns under the policy?

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Slide 41 Narration: Example One

Consider the following Hypothetical Situation.

An assistant director is helping their director plan new office space as part of a remodeled suite for their department including whether some workstations will be located in private offices or a large open space. As part of collecting feedback from current employees, one academic advisor privately shares with the assistant director that they would prefer a private office because another member of the department repeatedly makes unwanted comments in shared break rooms about their attractiveness and asks them on dates. The academic advisor tells the employee a private office would reduce these occurrences and they would be nervous to share an open space with the other person.

The assistant director tells their director about the concerns. The director tells them not to worry about it and that the director will take care of it. What do you think the assistant director should do? Does the information shared include any concerns under the policy?

Check in

Consider the following Hypothetical Situation:

- Assistant director is working on a remodel plan for office space.
- Academic advisor privately shares with assistant director preference for private office due to unwanted coworker advances.
- Academic advisor is worried to share space with coworker daily.
- The assistant director tells their director about the concerns. The director tells them not to worry about it and that the director will take care of it.

Report to Title IX Coordinator. The concern could be sexual harassment!

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Slide 42 Narration: Example One (answer)

The description shared with the assistant director could be sexual harassment. The assistant director, as a University employee learning this information in the scope of their employment that involves another employee should promptly report it to the Title IX Coordinator for their campus. Failing to report could lead to mandatory termination, even if the director tried to address the behavior in another way.

Thanks to their report, the assistant director is able to help facilitate accommodations through the Sexual Misconduct Policy with the Title IX Coordinator. Equal Opportunity staff host an educational meeting with the other involved employee to explain the policy and expectations for professional employee conduct. Things settle down and the department receives no more reports of unwanted interactions between any of the staff.

Check in

Consider another Hypothetical Situation.

- Librarian contacts security due to unwanted interactions from a patron.
- Librarian is scared to walk through parking lot after spotting the patron.
- Patron has been leaving them gifts despite librarian telling them to stop behavior.

What forms of sexual misconduct should the security officer report?

Dating
violence

Sexual
assault

Sexual
harassment

Stalking

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Narration 43: Example Two

Let's try a second Hypothetical.

One night, a librarian contacts campus security and meets with a campus security officer. The librarian shares that a patron in the library has become very attached, asking daily questions at the circulation desk, showing up uninvited at their staff office, and even leaving gifts behind despite the librarian informing the patron it is unprofessional and he is married. The librarian noticed the patron waiting in a parking lot after work that night and is scared to leave work alone.

What forms of sexual misconduct should the security officer report to the Title IX Office?

- Dating violence,
- Sexual assault,
- Sexual harassment, or
- Stalking?

[Countdown to consider the example.]

Check in

Consider another Hypothetical Situation.

- Librarian contacts security due to unwanted interactions from a patron.
- Librarian is scared to walk through parking lot after spotting the patron.
- Patron has been leaving them gifts despite librarian telling them to stop behavior.

What forms of sexual misconduct should the security officer report?



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Narration 44: Example Two (answer)

The report can be filed as sexual harassment based on unwanted romantic advances, or stalking if the employee is in reasonable fear from the situation. If the security officer is not sure, they should submit the information and let Equal Opportunity staff determine the appropriate category.

Making the report will allow the Equal Opportunity staff to provide safety planning services to the librarian (such as safety plans with their supervisor to minimize contact with the patron), and administer a complaint process if necessary.

Check in

Consider another Hypothetical Situation.

- Librarian contacts security due to unwanted interactions from a patron.
- Librarian is scared to walk through parking lot after spotting the patron.
- Patron has been leaving them gifts despite librarian telling them to stop behavior.

If a coworker hears about the situation that has already been reported to security, should they still also make a Title IX report?

Yes!

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Narration 45: Example Two (second question)

If a coworker hears about the situation that has already been reported to security, should they still also make a Title IX report?

[Countdown 5 seconds]

Yes! If the security officer failed to report, they could be an important link to the TitleIX office. Or if something new has happened that day, they can possibly share new information with the Title IX office.

Consensual Relationship Policy

Relationships are prohibited between:

- Supervisors and subordinates;
- Faculty and undergraduate students;
- Coaches and undergraduate students; and
- Any faculty, staff, or student employee and an individual they teach, instruct, manage, supervise, advise, counsel, oversee, grade, coach, train, treat, or evaluate in any way.

Only the System Assistant Vice Chancellor/Assistant Vice President for Equal Opportunity Services or their designee is authorized to grant exceptions to this policy. If you have any questions, proactively contact your Equal Opportunity Coordinator.

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Slide 46 Narration: Consensual Relationship Policy

The University recognizes that consenting individuals associated with the University should generally be free to enter into personal relationships of their choice. However, such relationships must not risk undermining the workplace and learning environment.

Even if negative consequences to the participants do not result, such relationships could create an environment charged with potential or perceived conflicts of interest and possible use of academic or supervisory leverage to maintain or promote the relationship.

Under the UH System Consensual Relationship Policy, romantic relationships are prohibited between:

- Supervisors and subordinates;
- Faculty and undergraduate students;
- Coaches and undergraduate students; and
- Any faculty, staff, or student employee and an individual they teach, instruct, manage, supervise, advise, counsel, oversee, grade, coach, train, treat, or evaluate in any way.

Only the System Assistant Vice Chancellor/Assistant Vice President for Equal Opportunity Services or their designee is authorized to grant exceptions to this policy. If you have any questions, proactively contact your Equal Opportunity Coordinator.

Digital Accessibility

Policy protections apply to both in person and in the online world.

Electronic Information Resources (EIR) provide access to digital information such as website content, multimedia, online documents and Learning Management Systems. At the University:

- Individuals with disabilities, such as auditory, visual, and physical conditions, may require assistive technologies to be able to access digital content. Content must be text-readable for assistive technologies to fully work.
- Content authors including faculty are responsible for ensuring that their digital content meets accessibility standards, regardless of whether or not any student discloses a disability.
- There is an EIR Coordinator, as well as educational resources on the University and System website.

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Slide 47 Narration: Digital Accessibility

The protections of these policies apply to both in person and in the online world.

Electronic Information Resources-or EIR-are technologies that provide access to digital information such as website content, multimedia, online documents and Learning Management Systems. At the University . . .

Individuals with disabilities, such as auditory, visual, and physical conditions, may require assistive technologies to be able to access digital content. For instance, many people with and without disabilities use text-to-speech or auditory captions in their daily life.

In order for assistive technologies to be able to read digital content, that content must be formatted in a way that is accessible.¹⁰¹

Content authors including faculty members are responsible for ensuring that their digital content meets accessibility standards, regardless of whether any student discloses a disability.

Each university has an EIR Coordinator,¹⁰² as well as educational resources on their websites, to assist community members with both meeting and exceeding accessibility requirements.

¹⁰¹ For accessibility requirements, see Texas Administrative Code § 213.30 (software), §213.31 (telecommunications products), § 213.32 (video and multimedia), §213.33 (hardware), and §206.70 (websites).

¹⁰² The EIR Accessibility Coordinator is the employee designated by the President or Chancellor to develop, monitor, support and maintain its accessibility policy institution-wide. Texas Administrative Code § 213.41(d).

RESOURCES



Important Title IX & Equal Opportunity Coordinator Contact Information:

University of Houston

- Rebecca Lake, J.D.
- 713-743-8835
- titleix@uh.edu
- www.uh.edu/equal-opportunity

University of Houston-Downtown

- Lauri S. Ruiz, J.D.
- 713-221-5771
- titleix@uhd.edu
- www.uhd.edu/administration/title-ix

University of Houston-Clear Lake

- David D. Brittain, Jr., J.D.
- 281-283-2305
- titleix@uhcl.edu
- www.uhcl.edu/titleix

University of Houston-Victoria

- Brandon Lee, M.B.A
- 361-570-4835
- titleix@uhv.edu
- www.uhv.edu/title-ix

See also UH System [Crossroads Website](#) for student educational resources, and UH System [Digital Accessibility](#) website for online accessibility.

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Slide 48 Narration: Resources & Contacts

If you have any questions, do not hesitate to contact your campus' Equal Opportunity/Title 9 Coordinator.

Important Title IX & Equal Opportunity Coordinator Contact Information:

University of Houston

Rebecca Lake, J.D.
713-743-8835
titleix@uh.edu
www.uh.edu/equal-opportunity

University of Houston-Downtown

Lauri S. Ruiz, J.D.
713-221-5771
titleix@uhd.edu
www.uhd.edu/administration/title-ix

University of Houston-Victoria

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www.uhv.edu/title-ix

University of Houston-Clear Lake

David D. Brittain, Jr., J.D.
281-283-2305
titleix@uhcl.edu
www.uhcl.edu/titleix

See also UH System [Crossroads Website](#) for student educational resources, and UH System [Digital Accessibility](#) website for online accessibility.

Here are the office point-of-contacts for **students** in each issue area. Each of the offices below have support staff and potential designees to assist students.

Campus	Disability Accommodations	Title IX/Pregnancy (Title IX Coordinator), Anti-Discrimination (Equal Opportunity Coordinator) and Disability Appeals
UH	UH Justin Dart, Jr. Student Accessibility Center www.uh.edu/accessibility	Equal Opportunity Services www.uh.edu/equal-opportunity
UHD	UHD Office of Disability Services www.uhd.edu/ssl/disability	Office of Title IX / Equal Opportunity Services www.uhd.edu/administration/title-ix
UHCL	UHCL Accessibility Support Center www.uhcl.edu/accessibility-support-center	Office of Title IX and Equal Opportunity Services www.uhcl.edu/titleix/title-ix
UHV	UHV Office of Disability Services www.uhv.edu/disability-services	Title IX and Equal Opportunity Office www.uhv.edu/title-ix

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Slide 49 Narration: Other EO Resources for Students

These resources are specific to student concerns and requests at each University.

Here are the office point-of-contacts for students in each issue area. Each of the offices below have support staff and a potential designee to assist students.

For Disability Accommodations:

- At UH [Justin Dart, Jr. Student Accessibility Center](#),
- UHD [Office of Disability Services](#),
- UHCL [Accessibility Support Center](#),
- UHV [Office of Disability Services](#).

For Title IX or Pregnancy services (the Title IX Coordinator), Anti-Discrimination (the Equal Opportunity Coordinator) and Disability Appeals:

- UH [Equal Opportunity Services](#),
- UHD the [Office of Title IX / Equal Opportunity Services](#),
- UHCL the [Office of Title IX and Equal Opportunity Services](#) and
- UHV the [Title IX and Equal Opportunity Office](#).

At UHCL the office of Human Resources may also assist with employee pregnancy requests.

These resources are specific to employee concerns and requests at each University. The transcript of this presentation also provides direct links to campus specific resources.

Here are the office point-of-contacts for **employees** in each issue area. Each of the offices below have support staff and potential designees to assist employees.

Campus	Disability Accommodations	Title IX/Pregnancy (Title IX Coordinator), Anti-Discrimination (Equal Opportunity Coordinator) and Disability Appeals
UH	Equal Opportunity Services www.uh.edu/equal-opportunity	Equal Opportunity Services www.uh.edu/equal-opportunity
UHD	Employment Services & Operations www.uhd.edu/administration/employment-services-operations/benefits/Pages/Workplace-Accommodations.aspx	Office of Title IX / Equal Opportunity Services www.uhd.edu/administration/title-ix
UHCL	Office of Human Resources www.uhcl.edu/human-resources	Office of Title IX and Equal Opportunity Services www.uhcl.edu/titleix/title-ix <i>*Human Resources may also assist with routine pregnancy requests.</i>
UHV	Office of Human Resources www.uhv.edu/human-resources	Title IX and Equal Opportunity Office www.uhv.edu/title-ix

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Slide 50 Narration: Other EO Resources for Employees

Here are the office point-of-contacts for employees in each issue area. Each of the offices below have support staff and a potential designee to assist employees.

For Disability Accommodations:

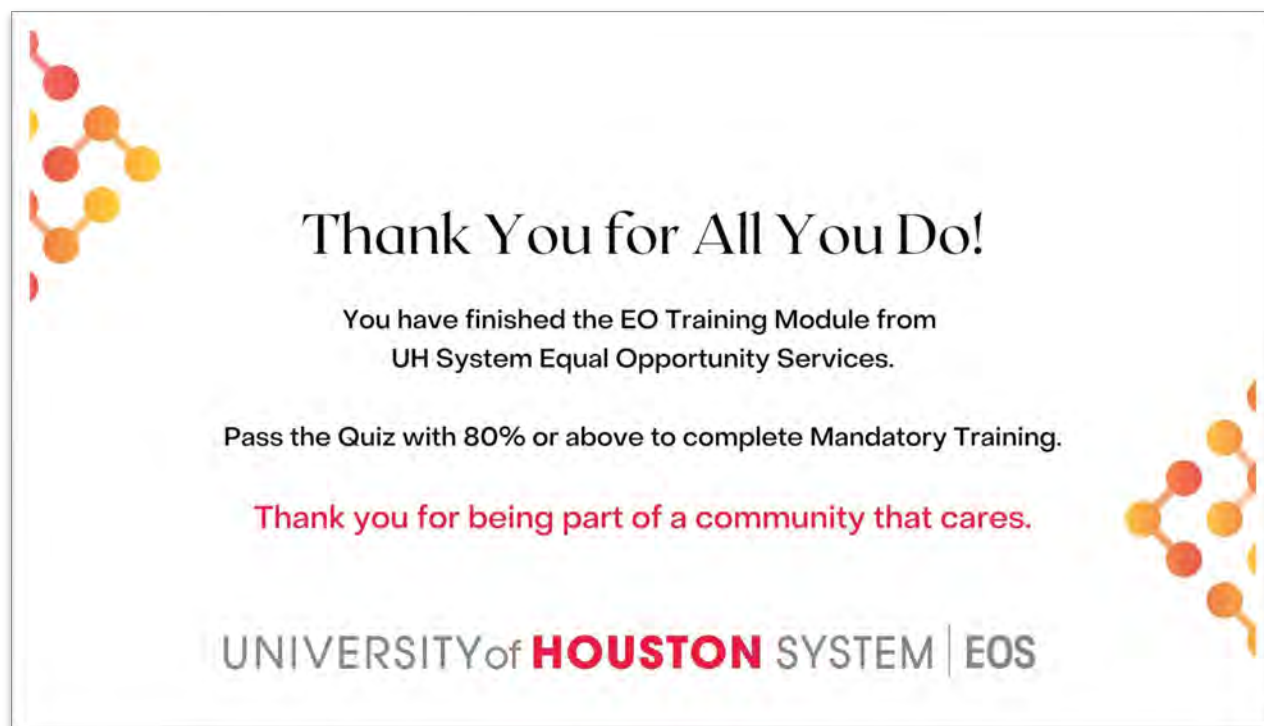
- At [UH Equal Opportunity Services](#),
- UHD [Employment Services and Operations](#),
- UHCL the [Office of Human Resources](#),
- UHV the [Office of Human Resources](#).

For Title IX or Pregnancy services (the Title IX Coordinator), Anti-Discrimination (the Equal Opportunity Coordinator) and Disability Appeals:

- UH [Equal Opportunity Services](#),
- UHD the [Office of Title IX / Equal Opportunity Services](#),
- UHCL the [Office of Title IX and Equal Opportunity Services](#) and
- UHV the [Title IX and Equal Opportunity Office](#).

At UHCL the office of Human Resources may also assist with employee pregnancy requests.

These resources are specific to employee concerns and requests at each University. The transcript of this presentation also provides direct links to campus specific resources.



Slide 51 Narration: Thank You for All You Do!

Thank you for your attention to this training content, and for all you do to support your University. We want to thank you in advance for sharing information to help students, employees and visitors have a positive campus experience.

To finish this module for employee credit, take the related quiz with a passing score of 80 percent or higher.

Thank you for being part of a community that cares, and for new employees, welcome to our team.