

Sec. 1. NONDISCRIMINATION STATEMENT

UT Tyler University Academy prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law. UT Tyler University Academy further prohibits retaliation against anyone involved in the complaint process.

Sec. 2. GENERAL NON-DISCRIMINATION POLICY

a) Prohibited Conduct

In this policy, the term “prohibited conduct” includes discrimination, harassment, and/or retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

i Prohibited Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, sex, gender, national origin, disability, age, or on any other basis prohibited by law, that adversely affects the student.

i Prohibited Harassment

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student’s race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student’s ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student’s academic performance; or
3. Otherwise adversely affects the student’s educational opportunities.

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

i Prohibited Gender-Based Harassment

Gender-based harassment includes physical, verbal, or nonverbal conduct based on a student's gender. Gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples of gender-based harassment, regardless of the student's or alleged harasser's actual or perceived gender, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

ii Prohibited Retaliation

UT Tyler University Academy prohibits retaliation against a student alleged to have experienced discrimination or harassment or another student who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

v. Prohibition on Discrimination in Student Dress or Grooming Policy

UT Tyler University Academy's dress and grooming policy, including dress and grooming policies for extracurricular activities, may not discriminate against a hair texture or protective hairstyle commonly or historically associated with race. For purposes of this policy, the term "protective hairstyle" includes braids, locks, and twists."

b) False Claims

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a UT Tyler University Academy investigation regarding discrimination or harassment is subject to appropriate discipline.

c) Reporting Procedures (Non-Sexual Harassment)

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to

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a teacher, counselor, campus director, or the appropriate Compliance Coordinator designated by UT Tyler University Academy. They may also report electronically using the StopIt! app.

Any UT Tyler University Academy employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate Compliance Coordinator listed in this policy, and take any other steps required by this policy.

The procedures in this Section 2 will apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX (including sexual harassment), see the procedures below at Section 3, Sexual Harassment Prohibited – Title IX Policy.

d) Definition of Compliance Coordinator

For the purposes of this policy, Compliance Coordinators are the Title IX Coordinator, the ADA/Section 504 coordinator, and the Superintendent or designee.

v *Title IX Coordinator*

The Title IX Coordinator is responsible for coordinating UT Tyler University Academy's efforts to comply with its responsibilities under Title IX with respect to discrimination based on sex, including sexual harassment, UT Tyler University Academy has designated the following individual as the Title IX Coordinator:

Blake Bumbard
Title IX Coordinator
3900 University Blvd.
Tyler, TX 75799
bbumbard@uttyler.edu
903-565-5760

vi *ADA/Section 504 Coordinator*

Reports of discrimination based on disability may be directed to the ADA/Section 504 Coordinator. UT Tyler University Academy designates the Campus Directors to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:

Tyler Campus – Kelly Dyer (kdyer@uttyler.edu)
Longview Campus – Rachel Hawkins (rhawkins@uttyler.edu)
Palestine Campus – Shelly Parsons (sparsons@uttyler.edu)

vi *Coordinator for Purposes of Compliance with Other Nondiscrimination Laws*

The following person(s) have been designated to coordinate UT Tyler University Academy's compliance with all other antidiscrimination laws.

Dr. Jo Ann Simmons
Superintendent
UT Tyler University Academy
3900 University Blvd.
Tyler, TX 75799
903-730-3988

e) Alternate Reporting Procedures

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX Coordinator or ADA/Section 504 Coordinator, may be directed to the Superintendent or designee. Reports concerning prohibited conduct by the Superintendent or designee may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

f) Timely Reporting

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair UT Tyler University Academy's ability to investigate and address the prohibited conduct.

g) Notice to Parents

A UT Tyler University Academy official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a UT Tyler University Academy employee or another adult.

h) Investigation

UT Tyler University Academy may request, but shall not insist upon, a written report. If a report is made orally, the school official shall reduce the report to written form.

Upon receipt or notice of a report, the appropriate Compliance Coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Compliance Coordinator shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

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

The investigation may be conducted by a Compliance Coordinator or designee, or by a third party designated by UT Tyler University Academy, such as an attorney. When appropriate, the Campus Director shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

a) Concluding the Investigation

Absent extenuating circumstances, the investigation should be completed within ten school business days from the date of the report. If the investigator determines that additional time is needed to complete a thorough investigation of the complaint and/or issue a report, he or she shall inform the complainant in writing of the necessity to extend the time for investigating or responding and a specific date by which the report will be issued.

The investigator shall prepare a written report of the investigation. The report shall be filed with the Compliance Coordinator overseeing the investigation.

b) School Action

If the results of an investigation indicate that prohibited conduct occurred, UT Tyler University Academy shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

UT Tyler University Academy may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

c) Confidentiality

To the greatest extent possible, UT Tyler University Academy shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

d) Appeal

A student who is dissatisfied with the outcome of the investigation may appeal through Board Policy PG-3.509 (Student and Parent Complaints and Grievances), beginning at the appropriate level. A student shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

e) Records Retention

Retention of records shall be in accordance with the applicable schedule published by the Texas State Library and Archives Commission.

Sec. 3. SEXUAL HARASSMENT PROHIBITED – TITLE IX POLICY

a) Definitions for Title IX Terms

i. Actual Knowledge

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to UT Tyler University Academy’s Title IX Coordinator or any UT Tyler University Academy official who has authority to institute corrective measures on behalf of UT Tyler University Academy, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of UT Tyler University Academy with actual knowledge is the respondent (as that term is defined below). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of UT Tyler University Academy. “Notice” as used in this definition includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. 34 C.F.R. 106.30(a).

ii. Complainant

"Complainant" means an individual who is alleged to be the victim of any prohibited conduct under this Policy.

iii. Consent

UT System has adopted the following definition of consent:

Consent – A voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. Consent to one act does not imply consent to another. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of consent. Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) coercion, (e) incapacitation or (f) any other factor that would eliminate an individual’s ability to exercise his or her own free will to choose whether or not to have sexual activity. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity. The definition of consent for the crime of sexual assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.²

iv. Deliberate Indifference Standard

If UT Tyler University Academy has actual knowledge of sexual harassment in an education program or

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activity of UT Tyler University Academy against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. UT Tyler University Academy is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. *34 C.F.R. 106.44.*

v. *Education Program or Activity*

For purposes of this Title IX policy, “education program or activity” includes locations, events, or circumstances over which UT Tyler University Academy exercised substantial control over both the respondent and the context in which sexual harassment occurs. *34 C.F.R. 106.44.*

vi. *Formal Complaint*

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that UT Tyler University Academy investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in UT Tyler University Academy’s education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information for the Title IX Coordinator provided by UT Tyler University Academy, and by any additional method designated by UT Tyler University Academy. As used in this definition, the term “document filed by a complainant” means a document or electronic submission (such as by email or through an online portal provided for this purpose by UT Tyler University Academy) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the Title IX formal complaint, and must comply with the requirements of the Title IX formal process, including the informal resolution process. *34 C.F.R. 106.30(a).*

vii. *Respondent*

"Respondent" means an individual who has been reported to be the perpetrator of prohibited conduct under this policy. (For UT-affiliated K-12 schools (e.g. charter schools), a parent or legal guardian of a Respondent may act on behalf of the Respondent.)

viii. *Sexual Harassment*

"Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following: a) Quid pro quo: An employee of the institution conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct; b) c) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity; or “Sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined in this Policy. Subsections (a) and (c) in this definition are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such conduct is sufficiently serious to deprive a person of equal access. Therefore, any instance of quid pro quo sexual harassment and any instance of sexual assault, dating violence, domestic violence, and stalking are considered sexual harassment under this Policy.

ix. *Supportive Measures*

The University will offer reasonably available individualized services, without any fee or charge, to the parties involved in a reported incident of Sexual Misconduct with or without the filing of a Formal Complaint, when applicable. Supportive Measures may include but are not limited to

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housing reassignment, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, withdrawal from or retake of a class without penalty, campus escort services, mutual restrictions on contact between the parties, change in work or housing locations, leaves of absences, increased security and monitoring of certain areas of campus, or other similar measures tailored to the individualized needs of the parties. Supportive Measures are non-disciplinary and non-punitive measures that do not unreasonably burden the other party. Any disciplinary or punitive measures may only be implemented following the conclusion of the Grievance Process, unless an emergency removal (as outlined in Section F) is appropriate. The University will maintain the confidentiality of Supportive Measures provided to the parties, to the extent that maintaining such confidentiality does not impair the ability of the University to provide the Supportive Measures.

b) Requirement to Designate Title IX Coordinator

UT Tyler University Academy must designate at least one employee as a Title IX Coordinator to coordinate UT Tyler University Academy's efforts to comply with its requirements under Title IX.

c) Notification of Title IX Policy

UT Tyler University Academy must notify applicants for admission and employment, students, parents or legal guardians of students, and all professional organizations holding professional agreements with UT Tyler University Academy of the name or title, office address, email address, and telephone number of the employee or employees designated as the Title IX Coordinator.

UT Tyler University Academy must also notify the individuals noted above that UT Tyler University Academy does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required under Title IX not to discriminate in such a manner. The notification must also state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to UT Tyler University Academy may be referred to the designated Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

34 .F.R. 106.8(a), (b)(1).

d) Handbook Information and Website Postings

UT Tyler University Academy must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described in "Notification of Title IX Policy," above, on the UT Tyler University Academy website, if any, and in the Employee Handbook and Student / Parent Handbook.

UT Tyler University Academy may not use or distribute a publication stating that UT Tyler University Academy treats applicants, students, or employees differently on the basis of sex except when such treatment is permitted by Title IX.

34 .F.R. 106.8(b)(2).

e) Reporting Sex Discrimination / Sexual Harassment

Any person may report sex discrimination, including sexual harassment, whether or not the reporting person is the person alleged to be the victim of conduct that may constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by email through the contact information listed for UT Tyler University Academy's Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Reports may be made at any time (including during nonbusiness hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator. 34 C.F.R. 106.8(a).

1. General Statement Empowering Community. This policy distinguishes between reporting sexual misconduct incidents on the one hand and filing Formal Complaints on the other. Reporting Sexual Misconduct incidents informs the University of the incident, which allows the institution to provide Supportive Measures (as outlined in Section D.9 of this Policy) to the Complainant and does not necessarily result in the initiation of the Grievance Process (as outlined in Section F of this Policy). All Complainants who report incidents of Sexual Misconduct will be offered individualized Supportive Measures. If Complainants wish to initiate the Grievance Process, they should file a Formal Complaint. As explained in more detail below (including exceptions and details as to applicability), generally speaking, the Grievance Process may involve an investigation into the incident and a hearing to determine the responsibility of the Respondent. Any person may report Sexual Misconduct, Retaliation, or other conduct prohibited under this Policy to the Title IX Coordinator.
2. Any person may report an incident, whether or not the person reporting is the person alleged to be the victim of the incident, and it can be a verbal or written report to the Title IX Coordinator:

Blake Bumbard,
Title IX Coordinator Ornelas Activity Center Room #160
3900 University Blvd, Tyler, TX 75799
Phone: 903-565-5760
Email: bbumbard@uttyler.edu

Online Title IX reporting form:

https://cm.maxient.com/reportingform.php?UnivofTexasTyler&layout_id=6 a)

- i. Filing a Formal Complaint. The Complainant may file a Formal Complaint with the Title IX Coordinator.
- ii. Anonymity. You may make an anonymous report by telephone, in writing or electronically
https://cm.maxient.com/reportingform.php?UnivofTexasTyler&layout_id=6 with the Title IX Office. Your decision to remain anonymous, however, may greatly limit the University's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.
- iii. Confidentiality. You can discuss an incident in strict confidence by using the confidential resources.

- iv. **Timeliness of Reporting.** Responsible Employees are required to report known incidents and information of Sexual Misconduct promptly to the Title IX Coordinator. For others in the University community, you are strongly encouraged to report Sexual Misconduct, Retaliation, and any other conduct prohibited under this Policy as soon as you become aware of such conduct.
3. **Reporting to Law Enforcement.** You may also file a police report with The University of Texas at Tyler Police Department at 903566-7300 (non-emergency) or to the City of Tyler Police Department 903-531-1090 (non-emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Office can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the University Police Department.
4. **Reporting to Outside Entities.** You may also contact the following external agencies:

For students:
Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
214-661-9600
214-661-9587 (fax)

Office for Civil Rights
U.S. Department of Health and Human Services
1301 Young Street, Suite 1169
Dallas, TX 75202
Phone: (800) 537-7697
FAX: (214) 767-0432

For employees:
U.S. Equal Employment Opportunity Commission
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202
Phone: (800) 669-4000
FAX: (214) 253-2720

Texas Workforce Commission
Civil Rights Division
101 E. 15th Street Room 144-T
Austin, TX 78778-0001
512-463-2642

5. **Confidential Support and Resources.** Students may discuss an incident with Confidential Employees or an off-campus resource (e.g. rape crisis center, doctor, psychologist, clergy person, etc.) without concern that the person's identity will be reported to the Title IX

Office. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of their choice, or an off-campus rape crisis resource without concern that the person's identity will be reported to the Title IX Office.

The University and community resources that provide confidential services are:

University Resources
Student Counseling Center
University Center
Phone: 903-565-5746
24/7 Crisis Line: 903-566-7254

Employee Assistance Program
Phone: 800-346-3549
<https://www.uth.edu/uteap/employees.htm>

Community Resources
East Texas Crisis Center
24-Hour Hotline Phone: 903-595-5591 or 800-333-0358
Etcc.org

6. Immunity. In an effort to encourage reporting of Sexual Misconduct, the University may grant immunity from student and/or employee disciplinary action to a person who acts in good faith in reporting an incident, filing a Formal Complaint, or participating in a Grievance Process (e.g. investigation, hearing, appeal). This immunity does not extend to the person's own violations of this Policy.
7. Parties' Rights Regarding Confidentiality, Requests to Not Investigate, and Requests to Dismiss Formal Complaints. The University has great respect for the privacy of the parties identified in a report or Formal Complaint. Under state law, however, Responsible Employees who receive information of alleged Sexual Misconduct must share that information with the Title IX Coordinator. As such, the University may need to act to maintain campus safety and must determine whether to investigate further, regardless of the Complainant's request for confidentiality or request to not investigate a report received by the Title IX Coordinator.

In making determinations regarding requests for confidentiality, Complainants' requests to not investigate, Complainants' requests to dismiss Formal Complaints, and/or requests to not disclose identifying information to Respondents, the Title IX Coordinator must deliberately weigh the rights, interests, and safety of the Complainant, the Respondent, and the campus community. Factors the University must consider when determining whether to investigate an alleged incident of Sexual Misconduct include, but are not limited to:

- The seriousness of the alleged incident;
- Whether the University has received other reports of alleged Sexual Misconduct by the alleged Respondent;
- Whether the alleged incident poses a risk of harm to others; and

- Any other factors the University determines relevant.

Under state law, if the Complainant requests in writing that the University not investigate a report, the University must inform the Complainant of the decision whether or not to investigate.

If the University dismisses a Formal Complaint, the University must provide the Complainant and Respondent a written notice of the dismissal and the reason(s) for the dismissal.

In the course of the Grievance Process, the University may share information only as necessary with people who need to know in compliance with the law, which may include but is not limited to the investigators, witnesses, Complainant, Respondent, parties' advisors, hearing officer, and the appellate officer—if applicable. The University will take all reasonable steps to ensure there is no retaliation against the parties or any other participants in the investigation or in any other part of the Grievance Process.

8. Resources and Assistance

- i. Healthcare. If you experience sexual violence, you are encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 5 days (120 hours) of the incident. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE, go directly to the emergency department of the nearest hospital that provides SAFE services.

UT Health Tyler
1000 S. Beckham Ave.
Tyler, TX 75701
903-597-0351

Christus Trinity Mother Frances Health System
800 E. Dawson, Tyler, TX 75701
844-606-DOCS

For more information about the SAFE, see https://www.texasattorneygeneral.gov/files/cvs/sexual_assault_examination.pdf. The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

- ii. **Police Assistance.** If you experienced or witnessed sexual misconduct, the University encourages you to make a report to the police. The police may, in turn, share your report with the Title IX Office, with the exception of when you use a pseudonym form under the Code of Criminal Procedure for incidents of sexual assault, stalking, family violence, and human trafficking. In those instances, where a pseudonym form is used, the police will only report the type of incident to the Title IX Coordinator but not any information identifying you.

A police department's geographic jurisdiction depends on where the incident occurred. Thus, if the incident occurred on the University campus, you may file a report with the University Police Department by calling 903-566-7300 or in person at UPD headquarters at 3410 Varsity Drive, Tyler, TX 75799, even if time has passed since the incident occurred.

The University Police Department can also assist with applying for any protective orders. Reporting an incident to law enforcement does not mean the case will automatically go to criminal trial or go through a Grievance Process. If the University police are called, a police officer will be sent to the scene to take a detailed statement. A police officer or victim services coordinator may also provide you with a ride to the hospital. You may also file a report with the University police even if the assailant was not a University student or employee. If the incident occurred in the City of Tyler, but off campus, you may also file a report with the Tyler Police Department, even if time has passed since the incident occurred. If a report is made to the police, a police officer will usually be dispatched to the location to take a written report. A sexual assault victim will also have an opportunity to have a crime victim liaison, counselor, advocate, or police officer with specialized training be present with the victim during police investigative interviews.

- iii. **Counseling and Other Services.** If you experience Sexual Misconduct, you are strongly encouraged to seek counseling or medical and psychological care even if you do not plan to request a SAFE or report the incident to the police. You may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted or if a SAFE is not performed. Similarly, other individuals impacted or affected by an incident are encouraged to seek counseling or psychological care.

You may receive medical care at the University Health Clinic (for students only), at a local emergency room, or by a private physician. You may also be provided with psychological support by the Student Counseling Center (students), Employee Assistance (employees), a referral through the Employee Assistance Program, or a care provider of your choosing.

Faculty and staff should contact:
Employee Assistance Program
Phone: 800-346-3549

<https://www.uth.edu/uteap/employees.htm>

f) Complaint Procedures

UT Tyler University Academy must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX, and a formal Title IX complaint process that complies with applicable federal regulations.

UT Tyler University Academy must provide notice to the individuals identified in Sec. 3(b) above of the school's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how UT Tyler University Academy will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 .F.R. 106.8(c)-(d).

g) Response by Title IX Coordinator

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

i. *Required Supportive Measures*

UT Tyler University Academy's response must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below) before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

34 C.F.R. 106.44(a).

ii. *Response to Formal Complaint*

In response to a formal complaint, UT Tyler University Academy must follow a process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below).

34 C.F.R. 106.44(b)(1).

iii. *Emergency Removals*

UT Tyler University Academy is not precluded from removing a respondent from its education program or activity on an emergency basis, provided that UT Tyler University Academy:

1. Undertakes an individualized safety and risk analysis;

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2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 C.F.R. 106.44(c).

iv. *Administrative Leave*

UT Tyler University Academy is not prohibited from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This does not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d).*

h) Process for Title IX Formal Complaint

For purposes of addressing formal complaints of sexual harassment, UT Tyler University Academy’s process must comply with the requirements listed in this section. Any provisions, rules, or practices other than those required by the Title IX regulations or this policy that UT Tyler University Academy adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b).*

UT Tyler University Academy’s Title IX formal complaint process must:

1. Treat complainants and respondents equally by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to UT Tyler University Academy’s education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent.
2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person’s status as a complainant, respondent, or witness.
3. Require that any individual designated by UT Tyler University Academy as a Title IX Coordinator, investigator, decision-maker, or any person designated by UT Tyler University Academy to facilitate an informal resolution process, not to have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. UT Tyler University Academy must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receive training on the definition of sexual harassment, the scope of UT Tyler University Academy’s education program or activity, how to conduct an investigation and Title IX formal complaint process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. UT Tyler University Academy must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including

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when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant. UT Tyler University Academy must also ensure that investigators receive training on relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process.
5. Include reasonably prompt timeframes for concluding the grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes if UT Tyler University Academy offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that UT Tyler University Academy may implement following any determination of responsibility.
7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.
8. Include the procedures and permissible bases for the complainant and respondent to appeal.
9. Describe the range of supportive measures available to complainants and respondents.
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

34 C.F.R. 106.45(b)(1).

i. *Notice of Allegations*

Upon receipt of a formal complaint, UT Tyler University Academy must provide the following written notice to the parties who are known:

1. Notice of UT Tyler University Academy’s Title IX formal complaint process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - a. The identities of the parties involved in the incident, if known;
 - b. The conduct allegedly constituting sexual harassment; and
 - c. The date and location of the alleged incident, if known.

The written notice must include a statement that the respondent is presumed not responsible for

the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. The written notice must inform the parties of any provision in UT Tyler University Academy’s Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, UT Tyler University Academy decides to investigate allegations about the complainant or respondent that are not included in the notice of allegations, UT Tyler University Academy must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2).

ii. *Dismissal of Formal Complaint*

UT Tyler University Academy must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in UT Tyler University Academy’s education program or activity, or did not occur against a person in the United States, then UT Tyler University Academy must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of UT Tyler University Academy’s Code of Conduct.

UT Tyler University Academy may dismiss the formal complaint or any allegations therein if, at any time during the investigation or hearing (if applicable):

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by UT Tyler University Academy; or
3. Specific circumstances prevent UT Tyler University Academy from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal of a formal complaint, UT Tyler University Academy must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

34 C.F.R. 106.45(b)(3).

iii. *Consolidation of Formal Complaints*

UT Tyler University Academy may consolidate formal complaints as to allegations of sexual harassment against more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable. *34 C.F.R. 106.45(b)(4).*

iv. *Investigating Formal Complaints*

When investigating a formal complaint and throughout the Title IX formal complaint process, UT Tyler University Academy must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on UT Tyler University Academy and not on the parties, provided that UT Tyler University Academy cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless UT Tyler University Academy obtains that party's voluntary, written consent to do so for a Title IX formal complaint. If a party is not an "eligible student," as defined in the FERPA regulations, UT Tyler University Academy must obtain the voluntary, written consent of a "parent," as defined in the FERPA regulations.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related or proceeding by the advisor of their choice, who may be, but is not required to be, and attorney, and not limit the choice or presence of the advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, UT Tyler University Academy may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which UT Tyler University Academy does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, UT Tyler University Academy must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. UT Tyler University Academy must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5).

v. Hearings

UT Tyler University Academy's Title IX formal complaint process does provide for a hearing. After UT Tyler University Academy has sent to the investigate report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and

allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. *34 C.F.R. 106.45(b)(6)(ii)*.

vi. *Determination Regarding Responsibility*

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, UT Tyler University Academy must apply the same standard of evidence described at “Process for Title IX Formal Complaint, Sec. 3(h) above. The written determination must include:

1. Identification of the allegations potentially constituting sexual harassment.
2. A description of the procedural steps taken from receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held (if any).
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of UT Tyler University Academy’s Code of Conduct to the facts.
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions UT Tyler University Academy imposes on the respondent, and whether remedies designed to restore or preserve equal access to UT Tyler University Academy’s education program or activity will be provided by UT Tyler University Academy to the complainant.
6. UT Tyler University Academy’s procedures and permissible bases for the complainant and respondent to appeal.

UT Tyler University Academy must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that UT Tyler University Academy provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

34 C.F.R. 106.45(b)(7)(i)-(iii).

The Title IX Coordinator is responsible for effective implementation of any remedies identified in a determination regarding responsibility. *34 C.F.R. 106.45(b)(7)(iv)*.

vii. *Appeals*

UT Tyler University Academy must offer both parties an appeal from a determination regarding responsibility, and from UT Tyler University Academy’s dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination on responsibility or dismissal was made, that could affect the outcome of the matter; and

3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

UT Tyler University Academy may offer an appeal equally to both parties on additional bases.

As to all appeals, UT Tyler University Academy must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with standards regarding conflict of interest and bias found in the Title IX regulations (as discussed in “Process for Formal Title IX Complaint,” Sec. 3(h) above);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8).

i) Informal Resolution

UT Tyler University Academy may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, UT Tyler University Academy may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, UT Tyler University Academy may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

With respect to informal resolution, UT Tyler University Academy must provide written notice to the parties disclosing:

1. The allegations;
2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

UT Tyler University Academy also must obtain the parties’ voluntary, written consent to the informal resolution process.

UT Tyler University Academy cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(b)(9).

j) Recordkeeping

UT Tyler University Academy must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to UT Tyler University Academy’s education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. UT Tyler University Academy must make these training materials publicly available on its website or, if UT Tyler University Academy does not maintain a website, UT Tyler University Academy must make these materials available upon request for inspection by members of the public.

For each response required under “Response by Title IX Coordinator,” Sec. 3(g) above, UT Tyler University Academy must create and maintain for a period of seven years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, UT Tyler University Academy must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to UT Tyler University Academy’s education program or activity.

If UT Tyler University Academy does not provide a complainant with supportive measures, UT Tyler University Academy must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit UT Tyler University Academy in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10).

k) Retaliation Prohibited

Neither UT Tyler University Academy nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

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

Complaints alleging retaliation may be filed according to the “Process for Formal Title IX Complaint,” Sec. 3(h) above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

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

34 C.F.R. 106.71(a)-(b).

l) Confidentiality

UT Tyler University Academy must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and nay witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of the Title IX regulations at 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a).*

m) Relationship to General Non-Discrimination Policy

The formal complaint investigation and resolution process outlined above in Section 3 applies only to formal complaints alleging sexual harassment under Title IX, but not to complaints alleging sex discrimination that do not constitute sexual harassment. Complaints of sex discrimination that do not constitute sexual harassment may be filed with the Title IX Coordinator and will be handled under UT Tyler University Academy’s general process for receiving reports of suspected discrimination and harassment, as outlined in Section 2 above.

SEC. 4. ACCESS TO POLICY

Information regarding this policy shall be distributed annually to UT Tyler University Academy employees and distributed to parents and students through the Student Handbook. Copies of the policy shall be readily available at each campus and the UT Tyler University Academy administrative offices.