

days from receipt of all responses. If necessary, the Designated Appeal Officer will notify the student should they need additional time to determine the outcome of the appeal. The decision of the designated appeal officer is final and cannot be appealed.

If the designated appeal officer remands the decision to a new Hearing Body, the decision of that Hearing Body is final and may not be appealed.

*NOTE: For information pertaining to an Intent to Appeal and delay of sanctions, please see sanction procedures.*

#### **8. Former Student Conduct & Readmission**

A former student who engages in conduct that is a violation of the *Code of Student Conduct* may be subject to conduct procedures prior to reenrollment, a bar against readmission, revocation of a degree, and withdrawal of a diploma.

A student who has had an administrative hold placed on their records under this section must request readmission from the Managing Director or designee at least three (3) weeks prior to any Texas Tech University Office of Admissions application deadlines for the semester or summer session in which the student wishes to re-enroll. The student may be required by the Managing Director or designee to submit evidence in writing supportive of his/her present ability to return to the University. The University will evaluate the student's request and supporting documentation with primary consideration given to satisfying all conditions specified at the time of suspension or withdrawal. If approval is granted by the Managing Director for the Office of Student Conduct or designee for the removal of the administrative hold, the student must then complete the regular University readmission procedures.

### **SECTION D: TITLE IX PROCEDURES FOR STUDENTS**

This section provides information regarding the university's prevention and education efforts related to sex discrimination, sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, public indecency, sexual misconduct, interpersonal violence, and stalking. This policy, in conjunction with TTU OP 40.03, provides students with their rights and options and also explains how the university will proceed once it is made aware of allegations of prohibited conduct in keeping with the university's values and in order to meet the legal obligations of Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), Texas Education Code, and other applicable law.

The university is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. Texas Tech prohibits discrimination based on sex, which includes pregnancy, and other types of Sexual Misconduct. Sexual Misconduct is a broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and any other misconduct based on sex. Any acts that fall

within the scope of this policy hereinafter are referred to as Sexual Misconduct.

While sexual orientation and gender identity are not explicitly protected categories under state or federal law, it is the university's policy not to discriminate in employment, admission, or use of programs, activities, facilities, or services on this basis. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, by actions, or electronically displayed or conveyed.

This policy applies to all university students. This policy will apply to on-campus and off-campus conduct of which the university is made aware and which adversely impacts the educational and employment environments of the university. The university will take all reasonable steps to prevent recurrence of any Sexual Misconduct and remedy discriminatory effects on the Complaining Party and others, if appropriate.

All investigations and procedures will be non-adversarial in nature and will be conducted in a prompt, equitable, and impartial manner. Investigations conducted under this policy are not criminal investigations. For all complaints under this policy, the burden of proof shall be a preponderance of the evidence, which means more likely than not.

The university expects all members of the University Community to comply with the law. Members of the University Community who violate these policies and laws may be subject to disciplinary action or sanctions, up to and including termination of employment, expulsion from the university, or being barred from university premises and events.

### **1. Definitions**

For purposes of this policy, the definitions below apply. However, some of these terms are also defined under state law. If a person would like to file criminal charges for any alleged violations of criminal law, the definitions as set forth in state law may apply.

- a. **Complaining Party/ Complainant** – A person who was allegedly subjected to a violation of this policy.
- b. **Consent** – Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly conveys permission for a specific activity.

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 their own free will to choose whether or not to engage in sexual activity.

Before engaging in any type of sexual activity, it is the *initiator's* responsibility to obtain their partner's consent, either verbally or non-verbally. Silence cannot be assumed to express consent and saying "NO" is not the only way a sexual partner may communicate lack of consent. A partner may use non-verbal cues to indicate their lack of consent for any sexual activity. Some examples of non-verbal communication that demonstrate lack of consent

include:

- Resistance: pushing hands away, pulling away from partner
- Body going limp or freezing up
- Crying
- Wincing

Other points regarding consent:

- A person is not required to actively resist their aggressor.
- A person's intentional use of alcohol/drugs neither negates nor diminishes the initiator's responsibility to acquire consent before engaging in sexual activity.
- Consent has an expiration date. Consent on Thursday does not mean consent on Friday.
- A prior existing sexual relationship between consenting adults does not imply future consent to engage in sexual activities. This is true even in marriage or other long-term sexual relationships.

A person CANNOT consent to sexual activity when they are incapacitated. Engaging in sexual activity with someone you know or reasonably should know is incapacitated is a violation of this policy. The question of what the Respondent should have known is objectively based on what a reasonable person would have known about the condition of the Complainant.

*Revocation of Consent*- One partner can revoke their consent at any time, so long as it's clearly communicated to the other partner. Revocation may be communicated verbally and/or non-verbally. Once a partner has revoked consent, the sexual activity must stop. If sexual activity continues after the other partner has revoked their consent, a sexual assault has occurred.

- c. **Employee** – Any person who receives a W-2 or 1042-S from the university, including full- and part-time faculty, staff, and students.
- d. **Incapacitation** – A state of being that prevents an individual from having capacity to give consent. Incapacitation includes, but is not limited to:
  - Age: A minor cannot consent to engage in sexual activity. In Texas, the legal age of consent is 17.
  - Intellectual or other Disability: A person with a mental disorder or other cognitive issue which prohibits them from making an informed decision lacks capacity to consent to engage in sexual activity.
  - Physical Incapacitation: A person who is asleep, unconscious, and/or intoxicated to the point of no longer understanding or controlling their actions cannot consent to engage in sexual activity.
- e. **Interpersonal Violence** – For purposes of this policy, Interpersonal Violence is:
  - **Domestic or Family Violence** – Abuse or violence committed by a current or former spouse or intimate partner of the Complaining Party, by a person with whom the Complaining Party shares a child in common, by a person with whom the Complaining Party is cohabiting (or has cohabited) with a spouse or intimate partner, by a person similarly situated to a spouse of the Complaining Party under the domestic or family violence laws of the state

of Texas, 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 state of Texas.

- **Dating Violence** – Abuse or violence, or a threat of abuse or violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complaining Party. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.
- f. **Public Indecency** – Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency including, but not limited to:
- Exposing one's genitals or private areas;
  - Public urination;
  - Defecation; and/or
  - Public sex acts.
- g. **Reporting Party** – A person or entity (in the case of the university), other than the Complaining Party, who reports an alleged violation of this policy.
- h. **Responding Party/Respondent** – Generally, the Responding Party is the person or organization that is alleged to be responsible for the prohibited conduct alleged in a complaint.
- i. **Sex Discrimination** – An act that deprives a member of the university community of their rights of access to campuses and facilities and of participation in education, services, programs, operations, employment, benefits, or opportunities with the university on the basis of the person's sex.
- j. **Sexual Misconduct** – A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, interpersonal violence, sexual violence, and other misconduct based on sex.
- k. **Sexual Assault** – Sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. Sexual Assault includes:
- (1) **Nonconsensual Sexual Contact** – Intentional sexual touching, however slight, with any object or part of one's body of another's private areas without consent. Sexual Contact includes:
- Intentional contact with the breasts, buttock, groin, or genitals;
  - Touching another with any of these body parts;

- Making another touch you or themselves with or on any of these body parts; or
  - Any other intentional bodily contact in a sexual manner.
- (2) **Nonconsensual Sexual Intercourse** – Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.
1. Sexual Exploitation – Taking nonconsensual or abusive sexual advantage of another for the benefit of oneself or a third party. Prohibited behavior includes, but is not limited to:
    - Purposeful recording, distribution, or dissemination of sexual or intimate images or recordings of another person without that person’s full knowledge or consent;
    - Sexual voyeurism;
    - Inducing another to expose one’s genitals or private areas;
    - Prostituting another; or
    - Knowingly exposing someone to or transmitting a sexually transmitted disease without the party’s full knowledge and consent.
  - m. Sexual Harassment – Means unwelcome, sex-based verbal or physical conduct that in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student’s ability to participate in or benefit from educational programs or activities.
  - n. Stalking – A course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or would cause that person to suffer substantial emotional distress. A “course of conduct” means two or more acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person’s property. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
  - o. University Community – All faculty, staff, and students of and visitors to any university premises or university-affiliated activity.

**2. Title IX Staff**

The Office for Student Rights & Resolution (OSR&R) will investigate complaints of Sexual Misconduct by or between students. (*Please note, some campus partners refer to OSR&R as “the Title IX Office.”*) The Texas Tech University System Office of Equal Opportunity (Office of EO) will investigate complaints of Sexual Misconduct by or between employees.

The OSR&R staff includes the Title IX Administrator, Assistant Title IX Administrator/ Case Manager, Investigators, CARE (Campus Advocacy, Response and Education) Coordinators, and a Business Assistant. Information provided to OSR&R is considered private and is only shared with other campus officials in the event of an emergency, or an educational need to know. Reports are only shared with law enforcement with the express consent of the student involved, or through a lawfully issued subpoena.

- a. Title IX Administrator- A trained university staff member who oversees the university's compliance with Title IX. The university has also designated an Assistant Title IX Administrator and Title IX deputy administrators for students and employees.
- b. Title IX Case Manager- A trained university staff member whose role is to respond to Sexual Misconduct reports. The Title IX Case Manager conducts Intake meetings with the Complainant and Respondent, coordinates all remedies and resources for students involved in Sexual Misconduct cases, and assists student with anonymous reporting. The Case Manager oversees the university's compliance in offering assistance to involved parties.
- c. Investigator- A trained university staff member whose role is to conduct a thorough, reliable, and equitable investigation and compile the information gathered into an Investigation Report. Investigators may facilitate Voluntary Resolutions when requested by the parties involved in the case. In cases heard by a Hearing Panel, the Investigator will present the information and evidence obtained through the Investigation to the Panel. Investigators are assigned to cases by the Title IX Administrator or Assistant Administrator.
- d. CARE Coordinators- CARE Coordinators are graduate students who, in conjunction with the Title IX Case Manager, connect students with resources after a referral is made to OSR&R. They serve as a student's primary point of contact. Coordinators are trained to work with both Complainants and Respondents, but each Coordinator will only work with one party in a case. CARE Coordinators review and clarify process and policies, reporting options and available resources; attend meetings as a support person; review documents and materials from the investigation, report, Hearing, decision letters and sanctioning as requested; and provide general support and a safe listening space. CARE Coordinators can assist students in filing anonymous reports but are not a confidential resource. CARE Coordinators do not provide legal guidance.
- e. OSR&R Business Assistant- A trained staff member who assists with the day to day operations of the office. The Business Assistant schedules appointments and greets individuals visiting the office.

### **3. Reporting Sexual Misconduct**

All employees, including student employees, who in the course and scope of employment witness or receive information regarding a possible incident of sexual harassment, sexual assault, dating violence or stalking against a student, employee or visitor to the institution shall promptly report the incident to the Title IX Administrator, Assistant Administrator, Deputy Administrator, or TTUS Office of Equal Opportunity. While not required, students are strongly encouraged to report any incident of Sexual Misconduct to the university, including incidents in which the student was a victim.

Students may also report incidents of Sexual Misconduct to law enforcement, including on-campus and local police. Complainants may choose to notify law enforcement and will be provided the assistance of the Title IX Administrator, Case Manager, Deputy Administrator or Investigator in contacting these authorities if the individual wishes. Parties may also choose not to notify law enforcement of incidents of Sexual Misconduct.

A student who experiences sexual or dating violence is encouraged to seek medical care for treatment and preservation of evidence, if applicable, as soon as possible after the incident. Preserving DNA evidence can be key to a sexual violence case. Students can undergo a sexual assault forensic exam (SAFE) performed by a sexual assault nurse examiner (SANE) to preserve physical evidence with *or without* police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, a SANE may still collect evidence up to 4 days following a sexual assault. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation. To undergo a SAFE, go to University Medical Center or Covenant Hospital.

Anyone who experiences any form of Sexual Misconduct should also preserve other evidence relevant to the incident reported, such as items of clothing, photographs, phone records, text messages, social media activity, computer records, and other documents.

### *Making a Report*

At Texas Tech, students can make a report in a variety of ways. Reports are private, and will not be shared with law enforcement, other students, faculty, non-Title IX staff or parent/family members without express consent.

- Filing a report online: A report can be made by visiting the online reporting form via the university Title IX website ([http://www.depts.ttu.edu/titleix/students/Report\\_an\\_Incident.php](http://www.depts.ttu.edu/titleix/students/Report_an_Incident.php)). This report can also be completed anonymously, except for university employees who are fulfilling reporting requirements. Please note that reporting anonymously may limit the university's ability to investigate the incident or provide resources to the involved parties.
- Contacting a Title IX staff member directly: Meet with a staff member in person, speak over the phone, or communicate via email. Staff members can answer questions about the policies/procedures and describe options available to students.
  - Title IX Administrator- Dr. Kimberly Simón; Administration Building Suite 115, 806.834.1949, [kimberly.simon@ttu.edu](mailto:kimberly.simon@ttu.edu)
  - Title IX Case Manager- Meredith Holden; Student Union Building Room 232E; 806.834.5556, [meredith.holden@ttu.edu](mailto:meredith.holden@ttu.edu)
  - CARE Coordinators- Student Union Building Room 232E; 806.742.7233
- Make an anonymous report: Staff members are available to assist student in making an anonymous report. Anonymous reports can help put a student in touch with resources even if they are not sure they would like to proceed with formal reporting and investigation procedures. Anonymous reports can be made through the Title IX Case Manager and CARE Coordinators in OSR&R. These staff members can be reached by calling 806.742.7233 or visiting the Student Union Building, Suite 232E. The staff in the RISE Office can also assist with anonymous reporting. The RISE office can be reached by calling 806.742.2110, emailing [RISE@ttu.edu](mailto:RISE@ttu.edu), or visiting the office in Drane Hall Suite 247.
- Make a confidential report: Students may make a confidential report to licensed clinical and/or

mental health professionals acting in their professional roles. These employees are encouraged to provide their students with information and guidance regarding university reporting options and available resources but will not report or otherwise refer incidents to OSR&R without the student's express permission. Confidential reports may be made to the Student Counseling Center, the Family Therapy Clinic, the Psychology Clinic, and Student Health Services on campus. Students can make confidential reports off campus to Voice of Hope, and other licensed clinical and mental health providers.

While there is no deadline to file a report, to promote timely and effective review, the university strongly encourages individuals who believe they have experienced Sexual Misconduct to come forward promptly with their complaints and to seek assistance from the university. Delays in reporting can greatly limit the university's ability to stop the Sexual Misconduct, collect evidence, and/or take effective action against individuals or organizations accused of violating the policy.

*Note: if a Respondent has left campus, either by withdrawing or graduating, prior to a report being **filed**, the university's ability to investigate and/or adjudicate may be limited.*

#### **4. Remedies and Resources**

The university may take immediate action to eliminate hostile environments, prevent reoccurrence, and address any effects on the Complainant and community prior to the initiation of any Investigation and/or formal conduct procedures. These interim steps will be taken to minimize the burden on the Complainant while respecting due process rights of the Respondent. Remedies for involved students may include, but are not limited to, counseling services, medical assistance, modifications to on-campus housing, modifications to parking permissions, academic support referrals, modifications to academic or work situations, instituting a No Contact Order between the parties in a complaint, reporting criminal behavior to the Texas Tech Police Department or Lubbock Police Department, and issuing an Interim Temporary Suspension, or otherwise altering the university status of the Respondent. Other interim measures may be implemented and will be evaluated on a case-by-case basis. Interim measures may be kept in place through the conclusion of any review, investigation, resolution, or appeal process. Interim measures can be implemented regardless of whether or not the Complainant pursues formal university or criminal action. OSR&R is available to help students understand the student conduct process and identify resources.

Complainants and Respondents who are the subjects of a reported incident of sexual harassment, sexual assault, dating violence, or stalking will be allowed to drop a course in which they are both enrolled without any academic penalty.

##### *No Contact Order*

When initial inquiry indicates persistent and potentially escalating conflict between members of the University Community, a No Contact Order may be issued as a remedial, non-punitive deterrent to further conflict or situational complication. Upon request from OSR&R, a No



Contact Order will be issued by OSR&R, the Office of Student Conduct, or the Dean of Students via the student's official Texas Tech email. The notice serves as an official directive that the student(s) have no contact with the other listed parties. Contact cannot occur in person, by telephone, email, text message or other electronic means of communication, or through a third party (other than an attorney). Should contact need to occur, the student should coordinate with the Title IX Case Manager or Investigator. This notice may also come with other information related to changes in class schedule or other restrictions to facilitate the No Contact Order. Failure to comply with the No Contact Order may result in additional disciplinary action, including possible suspension or expulsion. Violations of no contact orders may also result in Immediate Temporary Suspension pending the completion of a conduct process. The term of a No Contact Order is one year from the date of issuance, or the graduation of one or both parties, whichever comes first.

#### *Immediate Temporary Suspension – Students*

Under the *Code of Student Conduct*, the Office of Student Conduct Managing Director or designee may impose restrictions and/or separate a student from the community pending the completion of the conduct process for alleged violation(s) of the *Code of Student Conduct* when a student represents a threat of serious harm to others that is deemed a continuous threat, is facing allegations of serious criminal activity, to preserve the integrity of an Investigation, to preserve university property and/or to prevent disruption of, or interference with, the normal operations of the university. Through an interim action or during an interim suspension, a student may be denied access to University Student Housing and/or the university campus/facilities/events. As determined appropriate by the Managing Director or designee, this restriction may include classes and/or all other university activities or privileges for which the student might otherwise be eligible. At the discretion of the Managing Director or designee and with the approval of, and in collaboration with, the appropriate Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding student. Students are informed of interim actions or of an interim suspension by the official notice procedures outlined in this section. Interim action(s) or an Interim Suspension are not sanctions. It is taken in an effort to protect the safety and well-being of the Complainant, Respondent, and/or other members of the University Community. Interim action(s) is/are preliminary in nature; it is in effect only until the conduct process has been completed. However, violations of interim action may result in additional allegations of the *Code of Student Conduct*. A student who receives an interim action(s) or interim suspension may request a meeting with the Managing Director or designee to demonstrate why an interim action(s) or suspension is not merited. Regardless of the outcome of this meeting, the university may still proceed with an Investigation and adjudication.

A student may be temporarily suspended pending completion of conduct procedures if, in the judgment of the Office of Student Conduct Managing Director or designee, or on recommendation of Title IX Staff, the physical or emotional well-being of a student or other students or members of the University Community could be endangered or if the presence of the

student could significantly disrupt the normal operations of the university. The Managing Director or designee will initiate appropriate conduct procedures to address the disruptive behavior within five (5) university working days from the date of temporary suspension. Initiation of appropriate conduct proceedings includes but is not limited to informing parties that an investigation has begun via a “Notice of Involvement/Notice of Investigation” letter.

Upon Immediate Temporary Suspension, the student may no longer attend classes, use university services and/or resources, and is not allowed to be on campus until the conduct proceedings have been concluded or the Interim Action has been modified. Any instances whereby the student should need to return to campus must be coordinated through the Office of Student Conduct and the Texas Tech Police Department. Conduct, on or off campus that typically results in immediate temporary suspension:

- A significant and articulable threat to the health or safety of a student or other member(s) of the University Community that is deemed a continuous threat;
- Sexual assault, other forms of sexual misconduct, stalking, and relationship violence that are creating a hostile environment for the Complainant and the remedy for the harassment requires temporary separation;
- Criminal felony charges related to weapons, drugs, aggravated assault, and/or terroristic threats;
- Severe disruption in the academic community related to erratic behavior, threats, property damage, and/or verbal aggression with another student, where the offending student is uncooperative with staff requests;
- Violation of a No Contact Order;
- Retaliatory harm, discrimination, or harassment.

#### *Other Interim Actions*

In the event that the physical or emotional well-being of a student, other students, or members of the University Community could be endangered, or if the presence of the student could significantly disrupt the normal operations of the university, other interim actions may be taken to protect the educational environment. These actions include, but are not limited to, temporary removal from University Student Housing, temporary changes in a student’s academic schedule, and temporary restrictions from university activities, services and/or buildings, and representing the university.

In the event an Immediate Temporary Suspension is issued, a student may request a review of the Immediate Temporary Suspension or Interim Action for off campus courses and activities by the Office of Student Conduct Managing Director or designee. At the discretion of the Managing Director or designee, modifications can be made to an Immediate Temporary Suspension or Interim Action that impacts off campus courses and/or activities on a case by case basis.

#### *Non-Student Interim Actions*

The Office of Student Conduct, in conjunction with the Texas Tech Police Department, may

issue a Criminal Trespass to that individual(s) to any guest to the university whose presence could significantly disrupt the normal operations of the university, or who is alleged to have violated university policies and/or is deemed to pose a threat to the physical and/or emotional well-being of a student or other members of the University Community.

*Note: Students of Texas Tech University may be held responsible for actions of their guests.*

### **5. Rights and Responsibilities**

Prior to the formal investigative process, a student will be provided a Student Rights and Responsibilities document. This document will be reviewed and signed by the student prior to an interview with the Investigator. The Student Rights and Responsibilities document informs the student of their rights to be exercised before and during the investigative process.

Information gathered during the course of the Investigation and student conduct process may only be shared with faculty, staff, students, and/or advisors who are directly involved in the incident or necessary to the student conduct process.

Information gathered may also be disclosed in compliance with a judicial order or lawfully issued subpoena.

Involved parties have the right to, and are encouraged to, be accompanied by an advisor of the individual's choosing during all meetings, proceedings, and/or disciplinary hearings at which the individual is present. The role of the advisor will be limited to being present only; advisors are not allowed to actively participate in the process. CARE Coordinators may also attend any meeting or Hearing in addition to the student's advisor.

A student has the right to:

1. A prompt, fair, and equitable process;
2. Be accompanied by an advisor to any meeting or Hearing. An advisor can be any one of the following: a member of the Texas Tech Community (faculty, staff, or student), a parent or legal guardian, a relative, or an attorney. An advisor's role is that of support – they may not speak on behalf of the student and do not have an active, participatory role in the conduct process. If an advisor for the Responding Party is an attorney, an attorney from the Office of General Counsel may attend the Hearing on behalf of the university. The Complainant and/or the Respondent is responsible for presenting their own information, and therefore, advisors are not permitted to speak or participate directly in any Hearing unless authorized by a Student Conduct Officer. Students should select an advisor whose schedule allows attendance at the scheduled date and time for the Hearing, as delays will not be allowed due to the scheduling conflicts of an advisor. The Managing Director or designee has the discretion to remove an advisor at any point during the conduct process. A witness, anyone who may have a conflict of interest or anyone who may have any participatory role in the process may not be allowed to serve as an Advisor. Students who have been suspended may not serve as an advisor during their suspension and students who have been expelled may not serve as an advisor.
3. Refrain from making any statement relevant to the Investigation. Students are expected to cooperate with the university conduct process but may elect not to participate in the Investigation process, either in part or entirely. However, a student's refusal to participate in

the Investigation, in whole or in part, lasts for the duration of the conduct process. In other words, if a student chooses not to provide information during the Investigation, they will not be allowed to present new information during the Hearing; similarly, if a student provides only limited information during the Investigation (i.e., answering some of the Investigator's questions but not others), then during the Hearing, the student will only be permitted to speak to the information they provided, with no additional commentary. The rationale for this policy is to prevent either party from presenting new evidence at the Hearing that was available during the investigative process for the purpose of disadvantaging the other party.

Note: See Pre-Hearing Process, below, for details on inclusion of new, previously unavailable information after conclusion of the investigative process.

4. The opportunity to provide information and evidence in support of their case;
5. Know if they have been issued any allegations of misconduct;
6. Know the range of sanctions that may be imposed for a conduct violation, if one is alleged and found to have occurred;
7. Know the Texas Tech University conduct policies and procedures, and where to find them;
8. Know that any information provided by the student may be used in a conduct proceeding;
9. Know that if a student makes any false or misleading statements during the student conduct process, that student could be subject to further disciplinary action.

It is the student's responsibility to:

1. Be responsive to all correspondence from the university;
2. Provide information relevant to the incident or situation;
3. Be honest and provide true and accurate information during the Investigation;
4. Review the *Code of Student Conduct* in order to fully understand all aspects of the student conduct process.

## **6. Amnesty**

The university will not take any disciplinary action against a student who in good faith reports being the victim of, or witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking, for a violation of the *Code of Student Conduct* occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the disciplinary process regarding the incident.

Amnesty will be extended to the Complainant, Respondent, and witnesses who provide statements during an investigation and disclose their own personal drug or alcohol use.

The university may provide educational options to students to address any concerning behavior as part of the afforded amnesty or in lieu of conduct proceedings.

Abuse of amnesty provisions can result in a violation of the *Code of Student Conduct*.

Amnesty may not preclude students from being charged with allegations of misconduct related

to Part I, section B.2 (Actions against Members of the University Community and Others). The *Code of Student Conduct* amnesty provisions do not influence criminal proceedings or charges. Amnesty does not preclude students from being required to meet with university staff and to participate in conditions such as counseling, alcohol assessments, and other requirements. OSR&R may assist with questions related to amnesty provisions, and the final determination regarding amnesty in Title IX cases will be made by the Title IX Administrator or designee.

## **7. Investigation Process**

### *Response to Receipt of Incident*

Upon notice or receipt of an incident report regarding Sexual Misconduct or gender-based harassment/discrimination, the Title IX Case Manager or Title IX Administrator will contact the named Complainant to gather and review information about the nature of the report. The Title IX Case Manager or designee will contact the student via their official TTU email and request a meeting to review process options and available resources. When health and safety are potentially at risk, the Case Manager may call the student on the phone number listed in their student record. In the event that the Complainant does not respond to communication, the Title IX Case Manager will send a second email communication. Complainants are not required to respond or participate in any meetings with the Title IX staff.

### *Intake Phase*

Once a Complainant has made contact with the office, the Title IX Case Manager or designee will schedule an Intake Meeting with the Complainant. During this Intake, the Title IX Case Manager or designee will collect any additional demographic information, review this policy and the available options, and facilitate any requested resources and remedies. If the Complainant does not return contact or requests to not meet with the Title IX staff, the case is closed. If the Complainant requests only resources or remedies, the Title IX Case Manager contacts the appropriate campus parties to address the needs, and then the case is closed. If a Complainant wishes to make a statement or pursue an Investigation, the Title IX Case Manager or Title IX Administrator will appoint an Investigator.

When a Complainant is identified but is reluctant to participate in the investigative process and/or the student conduct process entirely, the university will make every attempt to follow the wishes of the Complainant while weighing the interests of the campus community and the possibility of a continuing threat. If the Complainant does not want to participate in the investigative process but has no aversion to the university pursuing conduct action with respect to the named Respondent, the institution may investigate the incident in the same manner that an anonymous complaint may be investigated. If the Complainant does not want the university to pursue the report in any respect, the university will investigate further only if there is reason to believe that a significant continuing threat to the campus community exists. In determining whether to investigate the incident, the institution shall consider the seriousness of the alleged incident, whether the university has received other reports of incidents committed by the alleged perpetrator(s), whether the alleged incident poses a risk of harm to others, and any other factor the institution deems relevant. If the university decides not to investigate the

incident, the university shall take any steps deemed necessary to protect the health and safety of the community in relation to the incident. OSR&R will inform the Complainant of the decision to investigate, or not investigate, the reported incident.

*Note: In Title IX cases, the Complainant must participate in the investigation and hearing processes in order for the university to move forward.*

*Note: The Title IX Administrator or designee may proceed with the conduct process (even if the Complainant(s) chooses not to participate) on a case by case basis if the alleged behavior involves pattern, predation, threat, or violence (PPTV) that may significantly impact the campus community and others.*

### *Investigation Phase*

After an Investigator has been appointed, the Investigator will inquire, gather and review information about the reported misconduct, and will evaluate the accuracy, credibility, and sufficiency of the information.

If it is determined that the information reported does not warrant an allegation, a Policy Clarification and/or Referral Meeting may occur. A Policy Clarification letter may be issued to involved parties to clarify the policy in question. When evaluating whether or not to issue an allegation, an Investigator assumes all facts are true as reported. If the facts would not result in a policy violation, an allegation is not issued, and the case is closed.

When an initial report of misconduct by a third party does not identify the involved parties or the involved parties are not available, the Investigator will investigate the reported incident to the fullest extent of the information available.

In accordance with state law, if a student withdraws or graduates from the university pending a disciplinary charge alleging the student violated the code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking, the institution:

- (1) May not end the disciplinary process or issue a transcript to the student until the institution makes a final determination of responsibility; and
- (2) Shall expedite the institution's disciplinary process as necessary to accommodate both the Responding Party's and Complainant's interest in a speedy resolution.
- (3) On request from another institution, the university shall provide to the requesting institution information relating to a determination that a student enrolled violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

### Notice of Investigation/Notice of Involvement

A student will be given notice of their involvement in regard to a referral received by the university or once the university is put on notice by receipt of a "Notice of Investigation/Notice

of Involvement” Letter. For Respondents, the Notice of Investigation will include the identity of the Complainant, the date, time, and location of the alleged incident(s), and the specific section(s) of the *Code of Student Conduct* the Respondent is alleged to have violated. When preliminary information indicates that certain, identifiable student(s) are associated with the reported incident, those student(s) will be asked to meet with an Investigator. In the event that a student fails to respond to written notification, an administrative hold may be placed on the student’s record to prevent further registration and transcript receipt. The administrative hold will remain until such time as the Investigator receives an appropriate response. Failure to comply with or respond to a notice issued as part of conduct procedure and/or failure to appear will not prevent an Investigator from proceeding with the conduct process. Likewise, failure of a student to respond to notification to appear may result in additional alleged violations and result in a charge of Failure to Comply.

At any point in the Investigation if additional potential allegations are discovered, the Respondent will be sent an additional Notice of Investigation/Notice of Involvement letter including the criteria listed above.

#### Actions constituting Sexual Misconduct

The comprehensive list of actions constituting misconduct in the *Code of Student Conduct* allegations can be found in Part I, Section B. Actions specifically related to Sexual Misconduct are located in Part I, Section B. 2 Actions against Members of the University Community and Others, and are reproduced here:

Any act, or attempted act, perpetuated against another person or persons including, but not limited to:

- h. Disruptive and/or Obstructive Conduct  
Intentional or reckless behavior that disrupts or obstructs the university operations including the cessation or temporary cessation of teaching, research, administration, other university activities, and/or other authorized non-university activities which occur on campus.
- i. Harmful, Threatening, or Endangering Conduct  
Intentional or reckless behavior that harms, threatens, or endangers the health or safety of self or others, including but not limited to:
  - 1. Assault
    - a. Intentionally, recklessly, or knowingly causing physical harm to another individual.
    - b. Intentionally, recklessly, or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.
  - 2. Threats  
An act or communication a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon a specific individual(s).
    - a. Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property.
    - b. Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another.

- c. A threat, including but not limited to, threats of mass violence, issuing a bomb threat, constructing mock explosive devices, etc., against any person, group of people, or property.
- 3. Intimate partner / relationship violence/dating violence  
For the purposes of this policy, Interpersonal Violence is:
  - d. Domestic or family violence is abuse or violence committed by a (1) current or former spouse or intimate partner of the Complainant, (2) person with whom the Complainant shares a child in common, (3) person who is cohabitating (or has cohabited) with the Complainant as a spouse or intimate partner, (4) person similarly situated to a spouse of the Complainant under state/local law, or (5) any other person against an adult or youth who is protected by that person's acts under the state/local domestic or family violence laws.
  - e. Dating violence is abuse or violence, or a threat of abuse or violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the person's involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.
  - f. Verbal abuse must be sufficiently severe, persistent, or pervasive that it adversely affects the victim's Complainant's education or creates an intimidating, hostile, abusive or offensive educational environment which interferes with the student's ability to realize the intended benefits of the university's resources and opportunities.
- 4. Bullying / cyber bullying  
Repeated or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally. Activities protected by freedom of expression will not be considered violations of the *Code of Student Conduct*. NOTE: Information related to freedom of expression policy is available in Part II, Section Q Use of University Space.
- 5. Stalking  
A course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or would cause that person to suffer substantial emotional distress. A "course of conduct" means two or more acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- 7. Mutual Combat  
Any incident between two or more individuals in which violence or the threat of violence is mutual.

*NOTE: Claims of self-defense will be evaluated as a mitigating factor on a case-by-case basis and may still be investigated by the Office of Student Conduct.*



j. Sexual Misconduct

1. Sexual Harassment

Unwelcome sex-based verbal, written, or physical conduct when: (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or education; (2) Submission to or rejection of such conduct is used as a basis for decisions affecting employment or education; or (3) Such conduct has the purpose or effect of interfering with the individual's work or educational performance or of creating an intimidating, hostile, or offensive working or educational environment. To constitute an intimidating, hostile, or offensive working or educational environment, the complained of conduct must be either severe, persistent, or pervasive.

2. Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another for the benefit of oneself or a third party. Prohibited behavior includes, but is not limited to:

- a. Photography or video recording of another person in a sexual, intimate, or private act without that person's full knowledge and consent;
- b. Purposeful distribution or dissemination of sexual or intimate images or recordings of another person without that person's full knowledge and consent;
- c. Sexual voyeurism;
- d. Inducing another to expose one's genitals or private areas;
- e. Prostituting another student;
- f. Knowingly exposing someone to or transmitting a sexually transmitted infection without the party's full knowledge and consent.

3. Public Indecency

Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency. Including, but not limited to exposing one's genitals or private area(s), public urination, defecation, and/or public sex acts.

4. Nonconsensual Sexual Contact

Intentional sexual touching, however slight and with any object or part of one's body, of another's private areas without consent. Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals;
- Touching another with any of these body parts;
- Making another touch you or themselves with or on any of these body parts; or
- Any other intentional bodily contact in a sexual manner.

5. Nonconsensual Sexual Intercourse

Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal. This can include intentional removal of a condom or other protective measure during intercourse without the consent of the partner.

k. Hazing- *Information available in Part I, Section B:2.*

l. Discriminatory Harassment

Conduct based on a student's sex, race, national origin, religion, age, disability, sexual orientation, gender, or other protected categories, classes, or characteristics that is sufficiently

severe, persistent, or pervasive that it adversely affects the victim's education or creates an intimidating, hostile, abusive or offensive educational environment which interferes with the student's ability to realize the intended benefits of the university's resources and opportunities.

m. Retaliatory Discrimination or Harassment

Any intentional, adverse action taken by an individual or allied third party, absent legitimate nondiscriminatory purposes, against a participant [or supporter of a participant] in a conduct process, civil rights grievance proceeding, or other protected activity.

n. Complicity or Knowingly Present

1. Assisting via acts or omissions another student, individual, or group in committing or attempting to commit a violation of the *Code of Student Conduct*.
2. Complicity with or failure of any organized group to address known or obvious violations of the *Code of Student Conduct* by its members.
3. Any person who is knowingly present for the commission of a violation of the *Code of Student Conduct* and does not take steps to remove themselves from the location of the violation.

*NOTE: Actions involving free expression activities are covered in Community Policies, Section H.*

When initial inquiry indicates a concurrent police Investigation is occurring, the Investigator will, where possible, collaborate with the Texas Tech Police Department during the Investigation. Elements of this collaborative Investigation may include the Investigator coordinating with responding officers at the scene of the incident, joint interviews with police detectives, and evidence sharing. The Investigator will never take physical custody of any physical or electronic evidence but will work closely with the Texas Tech Police Department to inspect, analyze, and incorporate physical or electronic evidence into the Investigative report.

During the Investigation, Complainants and Respondents are responsible for providing all information or evidence that they believe should be considered. The university will make all reasonable efforts to obtain relevant information such as surveillance video footage, university card swipe access and other information that may be available to the Institution.

At any point in the Investigation, either party may request to initiate the Voluntary Resolution process. This process is contingent upon the agreement of both the Complainant and Respondent, with the concurrence of the Title IX Administrator or designee. More information about the Voluntary Resolution process can be found under the *Resolution Phase* section below.

Once the Investigation is complete, the Investigator will compile the relevant information and evidence into an Investigation Report, which may include a timeline of the event(s), statements from interviews, physical and electronic evidence, a breakdown of the discrepancies in the various interviews, and credibility considerations. The Investigator will document any physical or electronic evidence in a manner that is conducive and does not obstruct concurrent or forthcoming police Investigations. A student will have access to review the completed Investigation Report and/or investigative materials relevant to the Investigation after the

Investigation has concluded. In order to protect confidentiality students may be given an electronic password protected copy of the investigation report which may be redacted. Allegations of potential violations of the *Code of Student Conduct*, if appropriate, are assigned at the conclusion of the Investigation at which point the Investigator reiterates the options for resolution to the involved parties. Should students not participate in the Investigative Process, the conduct process may continue without their participation. The Investigator may assign allegation(s) to the Respondent based on the information that the Investigator collected without the student's participation, if appropriate.

### *Resolution Phase*

#### Referral Meeting

A University official may request a meeting with a student in order to discuss a referral made to OSR&R or other administrative department when the referral may not be deemed a violation of the *Code of Student Conduct*, but when the Investigator or designee determines the referral warrants a discussion. The purpose of the discussion is to clarify concerns of the involved parties, to offer assistance to all involved parties, and to explain to the Respondent that repeated referrals may warrant an Investigation which may warrant adjudication.

#### Voluntary Resolution

In any matter governed by the *Code of Student Conduct*, the parties (the Complainant and Respondent) may mutually agree to attempt to resolve the matter prior to conclusion of the conduct process through a Voluntary Resolution process. The procedures utilized in the Voluntary Resolution process must be agreed upon by the parties with concurrence from the Title IX Administrator or designee. The parties must mutually agree in writing to all aspects of any resolution reached through the Voluntary Resolution process, including any restrictions, sanctions, or conditions as may be agreed upon by the parties with concurrence from the Title IX Administrator or designee, and any such resolution will be binding and final with no opportunity to appeal. Either party may withdraw from the Voluntary Resolution process at any time prior to final resolution, at which time the matter will proceed through the student conduct process as set forth in the *Code of Student Conduct*. Voluntary Resolution agreements will be maintained in accordance with university policies. Should either party violate the terms of the Voluntary Resolution, the matter may be referred to the Office of Student Conduct for adjudication.

#### Informal Resolution

If after the Investigation, the Respondent accepts responsibility for the allegations of the *Code of Student Conduct* outlined in an Investigation Report, the student can choose to resolve the issue informally. Should the student wish to participate in the Informal Resolution Process, the Investigator conducting the initial inquiry/Investigation will contact the Office of Student Conduct who will inform the student of the appropriate sanctions for the misconduct. To participate in the Informal Resolution process, a student must accept both the finding and the

sanctions. If accepted, the process ends, the finding is final, and there is no appeal.

In cases involving another student (a Complainant) and/or a violation of Part I, section B.2 (Actions against Members of the University Community and Others) of the *Code of Student Conduct*, both the Complainant and the Respondent must agree to both the finding and the sanctions as recommended by the Investigator. The case will only be reopened if new material, previously unavailable is presented.

Written notification of the outcomes and sanctions, if applicable, of the Informal Resolution will be provided simultaneously to the student(s) and appropriate University Administrators within five (5) university working days of the effectuation of the Informal Resolution.

### Hearings

Should the Complainant and Respondent wish to resolve the case through a formal Hearing, there are two options available: Administrative Hearing and Panel Hearing. For either type of Hearing, students will first complete the Pre-Hearing Process.

#### a. Pre-Hearing Process

In cases involving an Administrative or Panel Hearing, the Pre-Hearing Process will be followed. Once the Investigation is complete, the involved parties will participate in the Pre-Hearing Process. During the Pre-Hearing Process, students will be given the opportunity to review the Investigation Report, relevant evidence, and other documents to be used in the Administrative or Panel Hearing. Parties will acknowledge the receipt of and ability to review the completed Investigation Report and that they have no other information to present. Once the Investigation Report is finalized, the case will officially be referred to the Office of Student Conduct for adjudication.

Complainants and Respondents will then meet with their Resource Person in the Office of Student Conduct to complete the remainder of the Pre-Hearing Process. (*Note: additional information about the Resource Person may be found in Part I, Section A, I.c.4.*) The Resource Person will review other documents including the Hearing Panel composition, Hearing Script, Opening, Closing, and Impact Statement, and Appeal Procedures. Following the Pre-Hearing, student(s) will be notified of a date, time, and location of the Hearing via written notification sent to the student's official assigned Texas Tech University email address, delivered via Certified Mail to the student's last known address, or personally delivered to the student. University email is the university's primary means of communication with students. Students are responsible for all communication delivered to their university email address. Should students not participate in the Pre-Hearing Process, the conduct process may continue without their participation, including the assignment of allegations and the completion of an Administrative or Panel Hearing.

While students may identify errors in their own statements during the Pre-Hearing, they are not able to add additional information to the Investigation Report unless that information, in the

judgment of the Investigator, was unavailable during the investigative process and is pertinent to the consideration of the case. If a student discovers new, previously unavailable information during the time after the Pre- Hearing but before the Administrative or Panel Hearing, the student should inform the Investigator immediately. If the new information is pertinent to the consideration of the case, the Investigator will determine whether the new information should be included in the Investigation Report or presented verbally during the Administrative or Panel Hearing. If there is new evidence introduced, other involved parties would also be given the opportunity to provide a response to any new evidence that will be presented in the Administrative or Panel Hearing.

The student conduct process is designed to be non-adversarial. Students will be permitted to question the statements and evidence presented by the other involved parties, but may not do so directly. After reviewing the Investigation Report, during the Pre-Hearing, Complainants and Respondents will have the opportunity to question the statements and evidence presented by the other involved parties, via the Investigator, who will pose the questions and supplement the Investigation Report.

NOTE: Questions that are deemed objectionable, inappropriate, and/or irrelevant by the Investigator may be rejected.

Students may indicate whether an Administrative Hearing, Panel Hearing or Sanction Only Hearing is preferred. However, the Dean of Students, Managing Director, Title IX Administrator or designee has the sole discretion in all cases to designate whether an Administrative Hearing, Panel Hearing or Sanction Only Hearing will be held notwithstanding the student's preference.

In cases requiring a Hearing Panel, the Resource Person will share the pool of staff trained for Hearing Panels. Students will be given the opportunity to request to strike any member of the Hearing Panel whose impartiality may be in question. In order to strike a member of the Hearing Panel, the student must provide the Resource Person with a reasonable and substantiated rationale for the request. Once the composition of the Hearing Panel is set, the Resource Person will schedule the Panel Hearing.

At the discretion of the Title IX Administrator or designee, a review of the case may occur at any point during the investigation or conduct process for clarification of procedural processes and may be remanded to investigation or adjudication if deemed necessary.

b. Hearings

Upon completion of the initial inquiry/Investigation, after the allegation(s) have been assigned, and proper notice has been given to the student, the university may proceed to either an Administrative or a Panel Hearing and issue a finding and accompanying sanctions, if applicable. The Hearing may be held and a decision made, regardless of whether the student responds, fails to respond, attends the Hearing, or fails to attend the Hearing. Should the student fail to attend the Hearing, the Administrator or the Hearing Panel may consider the

information contained in the Investigation Report and render a decision. If the student accepts responsibility for the allegations issued in the Investigation Report the student may request a Sanction Only Hearing. For Title IX cases, the Complainant must participate in both the Investigation and Hearing processes for the matter to move forward to adjudication.

Hearings are closed to the public. In Title IX cases, both the Complainant and Respondent have the right to be present at the Hearing; however, they do not have the right to be present during deliberations. Arrangements can be made so that Complainant and Respondent do not have to physically be in the Hearing room at the same time. To request changes in the scheduled Hearing time or to participate from a separate room/ electronically, students should contact the Office of Student Conduct prior to the Hearing.

An In Absentia decision may be rendered by the appointed hearing body after proper notice has been given to the Respondent and the Respondent has failed to respond within the allotted time frame to meet with an Investigator.

The Managing Director or designee shall appoint a Resource Person in each Panel Hearing who facilitates the Hearing. The Resource Person is a non-voting participant in the Hearing and is a staff member in the Office of Student Conduct. The Resource Person assures that university/college procedures are followed throughout the Hearing.

The Panel Resource Person may:

- Prepare the Administrative/Panel Hearing materials;
- Record the Administrative/Panel Hearing proceedings;
- Escort participants into the Hearing room, grant breaks for participants,

and

distribute evidentiary materials;

- Ensure proper decorum throughout the Administrative/Panel Hearing;
- Ensure the procedural soundness of the Administrative/Panel Hearing;
- Provide student conduct history of the Respondent during the sanctioning phase, if necessary;
- Transcribe the findings of the Administrative/Panel Hearing;
- Compile the post- Hearing documentation,
- Deliver simultaneous notification to student parties.

The Investigator will present the Investigation Report, evidence, witnesses, allegation(s), and questions for deliberation. The Complainant and Respondent may make an opening statement about key points of the case. During the opening statement phase of the conduct process, the Complainant and the Respondent may not make character statements about themselves or others and may not make impact statements. The Complainant and Respondent may make comments about the facts of the case. The Panel may ask questions of the Investigator, Complainant, Respondent, and any witnesses. The Complainant and Respondent may pose

questions for each other through the Investigator. Should new evidence be presented without prior discussion with the Investigator, the Hearing may be halted to consider the inclusion of this information. Impact statements will also be halted if they are shared prior to the sanctioning phase of the Hearing. In the event the Resource Person of the Hearing removes a student due to misconduct (Complainant, Respondent, or witnesses), the alleged misconduct will be forwarded to the Office of Student Conduct for additional processing, as appropriate.

Following the Hearing, the Hearing Panel will deliberate and render a decision regarding the alleged misconduct, as well as determine any sanctions, if applicable. Should the Hearing Panel have any questions for the Investigator, the Complainant, and/or the Respondent during deliberations, the Hearing will reconvene so that all parties have the opportunity to hear and respond to other parties' responses. Simultaneous notification of outcomes of the Panel Hearing will be provided to the student(s) in writing within five (5) university working days, or as soon as practical, following the Panel Hearing. Decisions made through the Panel Hearing may be appealed by students utilizing the Conduct Appeal Procedures outlined below in this document.

*Note: All Hearing proceedings, excluding the deliberations of the Hearing Panel, will be recorded by the university.*

1. Administrative Hearing

An Administrative Hearing is the process of adjudicating allegations of violations of the *Code of Student Conduct* by an Administrative Hearing Officer. The Administrative Hearing Officer is assigned by the Office of Student Conduct Managing Director or designee. The Administrative Hearing Officer makes the decision of responsibility and assigns sanctions, as appropriate. Written notification of the outcomes of the Administrative Hearing will be provided to the student within five (5) university working days of the conclusion of the Administrative Hearing. Decisions made through the Administrative Hearing may be appealed by students by utilizing the Conduct Appeal Procedures outlined below.

2. Panel Hearing

A Panel Hearing is the process of adjudicating allegations of violations of the *Student Code of Conduct* by a Hearing Panel. For each Panel Hearing, a Panel of three (3) members will be chosen from the available pool by the Managing Director or designee. Following the Hearing, the Hearing Panel will deliberate and render a decision regarding the alleged misconduct, as well as determine any sanctions, if applicable. Simultaneous notification of outcomes of the Panel Hearing will be provided to the student(s) in writing within five (5) University working days, or as soon as practical, following the Panel Hearing. Decisions made through the Panel Hearing may be appealed by students utilizing the Disciplinary Appeal Procedures outlined below.

3. Sanction Only Hearing

If the student accepts responsibility for the allegations issued in the Investigation Report, the student may request a Sanction Only Hearing, by either a Hearing officer or a Hearing Panel. During a Sanction Only Hearing, the Investigation Report and finding are presented to the Hearing body by the Investigator. During presentation of the Investigation Report and finding, the Respondent and the Complainant are not allowed to dispute the facts or details of the case.

Both the Respondent and the Complainant may be present and both the Respondent and the Complainant may provide impact statements prior to sanctioning. Mitigating factors as well as a character statement may also be presented by the Respondent and may be considered by the Hearing body. Simultaneous notification of the outcome of the Sanction Only Hearing will be provided to the student(s) within five (5) university working days of the conclusion of the Sanction Only Hearing. Decisions made through the Sanction Only Hearing may be appealed by the students by utilizing the Conduct Appeal Procedures outlined below. In Sanction Only Hearings, students may appeal the sanction(s), and can only appeal on the following grounds, “the sanction imposed substantially varies from the range of sanctions normally imposed for similar infractions.” A student may only choose a Hearing Panel for Sanction Only Hearings for potentially separable offenses.

### Sanctions

An Administrative Hearing Officer, or a Hearing Panel may impose sanctions as a result of an Informal Resolution, Administrative Hearing, or Panel Hearing, when a student is found responsible. The potential sanctions are listed on the Title IX website at <http://www.depts.ttu.edu/titleix/> or in the *Code of Student Conduct* grid at <http://www.depts.ttu.edu/studentconduct>. The grid is provided only as a guideline for administering sanctions by the Administrative Hearing Officer and/or Hearing Panel. The Administrative Hearing Officer and/or the Hearing Panel may deviate from the grid for sufficient reason. Implementation of the disciplinary sanction(s) will begin immediately or as assigned.

In limited instances such as removal from University Student Housing, Suspension, or Expulsion, a student may submit an Intent to Appeal to the Managing Director or designee as soon after receipt of the hearing decision as possible and prior to the deadline to appeal (3 days). The student must clearly state an intent to appeal and must include the preliminary identification of the appropriate ground(s) of which the student believes an error occurred. Upon confirmation of receipt of the intent to appeal by the Managing Director or designee, the effective date of the student’s sanction(s) will be delayed pending the outcome of the appeal. However, upon the judgement of the Managing Director or designee, some cases (e.g. including but not limited to reasonable belief the student poses an active threat to at least one member of the University Community) with sanctions of housing removal, suspension, or expulsion may begin prior to the completion of the conduct appeal process.

Note: an Intent to Appeal does not satisfy the need for the student to articulate and submit a written appeal request as detailed in the Conduct Appeal Procedures below.

Both the Respondent and the Complainant will be simultaneously notified of the appellate officer’s decision and sanctions as appropriate. When sanctions are final, appropriate University Administrators may be notified of the student’s sanctions. Findings and sanctions agreed upon through the Informal Resolution Process are final and cannot be appealed. All records related to the disciplinary process will remain on file in the Office for Student



Rights and Resolution and the Office of Student Conduct for a minimum of seven (7) years from the date the case is completed through an Informal Resolution, Administrative Hearing, or Panel Hearing and/or Conduct Appeal Procedures. All records related to the disciplinary process resulting in suspension and/or expulsion will remain on file indefinitely.

If a student is found responsible for violating the *Code of Student Conduct*, sanctions may be imposed and can include, but are not limited to the following:

a. Disciplinary Reprimand

The disciplinary reprimand is an official written notification using the notice procedures outlined in this section to the student that the action in question was misconduct.

b. Disciplinary Probation

Disciplinary Probation is a period of time during which a student's conduct will be observed and reviewed. The student must demonstrate the ability to comply with university policies, rules, and/or standards and any other requirement stipulated for the probationary period.

Further instances of misconduct under the *Code of Student Conduct* during this period may result in additional sanctions.

c. Time-Limited Disciplinary Suspension

Time-Limited Disciplinary Suspension is a specific period of time in which a student is not allowed to participate in class, university related activities, or be present on campus property. The status of Disciplinary Suspension will be shown on the student's academic record, including the transcript. Disciplinary Suspension is noted on the student's transcript by the phrase "Disciplinary Suspension" and will include the period of time in which the student is/was suspended from the university. In most instances, the notation of Disciplinary Suspension will remain on the transcript permanently. A student has the ability to petition to remove a Disciplinary Suspension notation in the following instances: 1) the student is eligible to reenroll in the institution or 2) the Managing Director or designee, in conjunction with the Title IX Administrator, determines that good cause exists to remove the notation. A Disciplinary Suspension of a student will indicate the date on which the suspension period begins and the earliest date the application for student readmission will be considered. The Managing Director or designee may deny a student's readmission, if the student's misconduct during the suspension would have warranted additional disciplinary action. If the student has failed to satisfy any sanction that was imposed prior to application for readmission, the Managing Director or designee may recommend denial of readmission of a student. On denial of a student's readmission, the Managing Director or designee will set a date when another application for readmission may again be made. An administrative hold will be placed on the student's record to prevent registration during the Disciplinary Suspension.

NOTE: For information pertaining to academic courses taken at another higher education institution during time-limited disciplinary suspension, please refer to OP 34.21 located at <http://www.depts.ttu.edu/opmanual/OP34.21.pdf>

d. Disciplinary Expulsion

Disciplinary Expulsion occurs when the student is permanently withdrawn and separated from the university. This status of Disciplinary Expulsion will be shown permanently on the

student's academic record, including the transcript. Disciplinary Expulsion is noted on the student's transcript by the phrase, "Expulsion" and the date in which the student's expulsion became effective. In most instances, the notation of Disciplinary Expulsion will remain on the transcript permanently. A student has the ability to petition to remove a Disciplinary Expulsion notation in the following instances: 1) the student is eligible to reenroll in the institution or 2) the Managing Director or designee determines that good cause exists to remove the notation. An administrative hold will be placed on the student's record to prevent future registration.

e. Conditions

A condition is an educational or personal element that is assigned by an Administrative Hearing Officer or Hearing Panel. Costs associated with conditions may be the responsibility of the student. Some examples of conditions include, but are not limited to:

- Personal and/or academic counseling intake session;
- Discretionary educational conditions and/or programs of educational service to the university and/or community;
- Residence hall relocation and/or contract review/cancellation of residence hall contract and/or use of dining facilities;
- Restitution or compensation for loss, damage or injury, which may take the form of appropriate service and/or monetary or material replacement;
- Monetary assessment owed to the university;
- Completion of an alcohol or drug education program;
- Referral to the BASICS Program for assessment.

f. Restrictions

A restriction is an additional component of a disciplinary sanction. A restriction is usually an educational component that is to occur in conjunction with the sanctions and will usually be time specific. Some examples of restrictions include, but are not limited to:

- Revocation of parking privileges;
- Denial of eligibility for holding office in registered student organizations;
- Denial of participation in extracurricular activities;
- Prohibited access to university facilities and/or prohibited direct or indirect contact with members of the University Community;
- Loss of privileges on a temporary or permanent basis.

NOTE: Any student at any time may request a review of the sanctions in place in writing to the Managing Director or designee.

*Conduct Appeal Procedures*

A student may appeal the finding or the sanction(s) imposed in an Administrative Hearing or Panel Hearing by submitting a written petition to the Office of Student Conduct Managing Director or designee within three (3) university working days of the delivery of the written decision. If a student selects a Sanction Only Hearing, the student may appeal the sanction and

can only appeal on the following grounds, “the sanction(s) imposed substantially varies from the range of sanctions normally imposed for similar infractions.” The student may appeal by submitting a written petition to the designated appeal officer within three (3) university working days of delivery of the written decision. An appeal may not be filed on behalf of the student by a third party.

The Dean of Students, Managing Director, or designee, will select an appeal officer in each case. The designated appeal officer will be a trained university staff or faculty member who did not serve as the Investigator or the Administrative Hearing Officer in the original Conduct Process and will render a neutral, impartial, and unbiased decision.

The petition must clearly set forth the grounds for the appeal, together with the evidence upon which the appeal is based. A disagreement with the decision alone shall not constitute grounds for appeal. The only proper grounds for appeal, and the only issues that may be considered on appeal are as follows:

- A procedural [or substantive error] occurred that significantly impacted the outcome of the Hearing (e.g. substantiated bias, material deviation from established procedures, etc.);
- The discovery of new evidence, unavailable during the original Hearing or review of the case, which could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included; or
- The sanctions imposed substantially varies from the range of sanctions normally imposed for similar infractions.

NOTE: Lack of participation at any part of the Investigation or conduct process does not constitute as new evidence.

In Title IX cases, either the Complainant or Respondent may appeal the decision of the Office of Student Conduct. In such cases, the Office of Student Conduct will provide the written appeal to the other party and provide opportunity for one response. Responses must be provided within three (3) university working days.

The designated appeal officer will first review the appeal to determine if the appeal is timely and properly sets forth the appropriate grounds for appeal, with adequate accompanying evidence. If any of these requirements are not met, the appeal will be dismissed, and the decision will be final. The Hearing Body and/or a representative of the Hearing Body may provide a response to the appeal upon request of the appellate officer within three (3) university working days.

If the designated appeal officer determines that the sanctions imposed substantially vary from the range of sanctions normally imposed for similar infractions, the appeal identifies a procedural/substantive error or new evidence that was unavailable at the original Hearing, the

appeal officer will then determine whether the error or new evidence would have substantially impacted the decision of the Administrative Hearing Officer or Hearing Panel. If the designated appeal officer determines that the error or new evidence would have substantially impacted the decision, they may:

- Modify the finding and/or increase, decrease, or otherwise modify the sanctions;
- Remand the case to the original Hearing Body; or
- Remand the case to a new Hearing Body.

The Office of Student Conduct shall make all reasonable efforts to simultaneously notify the parties(s) of the status of the appeal throughout the appellate process and shall make all reasonable efforts to notify the student(s) the result of their appeal using the written notification procedures within ten (10) university working days from receipt of all responses. If necessary, the Designated Appeal Officer will notify the student should they need additional time to determine the outcome of the appeal. The decision of the designated appeal officer is final and cannot be appealed.

If the designated appeal officer remands the decision to a new Hearing Body, the decision of that Hearing Body is final and may not be appealed.

NOTE: For information pertaining to an Intent to Appeal and delay of sanctions, please see sanction procedures.

#### *Former Student Conduct & Readmission*

A former student who engages in conduct that is a violation of the *Code of Student Conduct* may be subject to conduct procedures prior to reenrollment, a bar against readmission, revocation of a degree, and withdrawal of a diploma.

A student who has had an administrative hold placed on their records under this section must request readmission from the Managing Director or designee at least three (3) weeks prior to any Texas Tech University Office of Admissions application deadlines for the semester or summer session in which the student wishes to re-enroll. The student may be required by the Managing Director or designee to submit evidence in writing supportive of his/her present ability to return to the university. The university will evaluate the student's request and supporting documentation with primary consideration given to satisfying all conditions specified at the time of suspension or withdrawal. If approval is granted by the Managing Director for the Office of Student Conduct or designee for the removal of the administrative hold, the student must then complete the regular university readmission procedures.

#### **8. Retaliation**

Retaliation against a person who reports a potential violation under this policy, assists someone with a report of a violation, or participates in any manner in an investigation or in the resolution of a complaint made under this policy is strictly prohibited and will not be

tolerated. Retaliation includes, but is not limited to threats, intimidation, reprisals, and/or adverse actions related to an individual's employment or education. The university will take appropriate steps to assure that a person who, in good faith, reports, complains about, or participates in an investigation pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to report the incident to OSR&R.

Individuals who are found to have retaliated under this policy will be subject to disciplinary action, up to and including termination of employment, expulsion from the university, or being barred from university premises and events.

### **9. Confidentiality**

The confidentiality of both the Complainant and Respondent will be honored by the university to the extent possible without compromising the university's commitment and obligation to investigate allegations of Sexual Misconduct, to protect the University Community, and to the extent allowed by law. However, because the university also has an obligation to maintain an environment free of Sex Discrimination and Sexual Misconduct, many university employees have mandatory reporting and response obligations and may not be able to honor a Complainant's request for confidentiality. The Title IX Administrator will evaluate requests for confidentiality.

The willful and unnecessary disclosure of confidential information by anyone, including the Complainant or Respondent, may affect the integrity of the investigation.

Students may make confidential reports to the University Student Counseling Center, Family Therapy Clinic, Psychology Clinic or Student Health Services. Complainants may also make confidential reports to Voice of Hope or to other licensed clinical and/or mental health professionals acting in their professional role of providing those services, including medical providers employed by the university. Information may be shared by the clinical and/or medical provider only with the Complainant's or Respondent's consent.

### **10. Interference with an Investigation**

Any person who knowingly and intentionally interferes with an investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the university. Interference with an investigation may include, but is not limited to:

- Attempting to coerce, compel, influence, or prevent an individual from providing testimony or relevant information;
- Divulging confidential information;
- Removing, destroying, or altering documentation relevant to the investigation; or
- Providing false or misleading information to the investigator, or encouraging others to do so.

## **11. Training and Education**

Texas Tech's commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this policy includes providing primary prevention and awareness programs for all incoming students and new employees, ongoing education to both employees and students, and emailing information regarding this policy to students at the beginning of each academic semester. This policy is published on the university's website and information regarding this policy and related policies is included in orientation materials for new students, faculty, and staff. All incoming first year and transfer students must attend an in-person Orientation session, and must additionally complete an online education module. Failure to complete this required training may result in a hold being placed on the student's account. All employees must attend Equal Opportunity non-discrimination and sex/gender discrimination training including sexual assault, sexual harassment, and campus crime mandated reporter training within the first 30 days of employment and receive supplemental training every two years. Other appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as risk reduction and safe and positive options for bystander intervention. In addition, university employees and administrators responsible for implementing this policy, including the Title IX Administrator, Assistant Title IX Administrator, Title IX Deputy Administrators, Investigators, and Hearing Officers, receive annual training about offenses, investigatory procedures, due process requirements, and university policies related to or described in this policy.

### **SECTION E. CONDUCT PROCEDURES FOR STUDENT ORGANIZATIONS**

Upon notice of an alleged violation of the *Code of Student Conduct* by a student organization, the Managing Director or designee will appoint an Investigator to review allegations of misconduct. The Investigator will inquire, gather and review information about the reported student organization misconduct, and will evaluate the accuracy, credibility, and sufficiency of the information.

Incidents will be forwarded for Investigation when there is reasonable cause to believe a policy has been violated. If it is determined that the information reported does not warrant an allegation, a Policy Clarification Letter may be issued to involved parties to clarify the policy in question.

When an initial report of misconduct by a third party does not identify the involved parties or the involved parties are not available, the Investigator will investigate the reported incident to fullest extent of the information available.

When a Complainant is identified but is reluctant to participate in the investigative process and/or the student organization conduct process entirely, the University will make every attempt to follow the wishes of the Complainant while weighing the interests of the campus community and the possibility of a continuing threat. If the Complainant does not want to participate in the investigative process but has no aversion to the University pursuing conduct action with respect