



THE UNIVERSITY OF TEXAS AT EL PASO

EQUAL OPPORTUNITY





EQUAL OPPORTUNITY OFFICE

EQUAL OPPORTUNITY

The University of Texas at El Paso is an Equal Opportunity/Affirmative Action Employer. The University, in the administration of its employment policies and practices, will not discriminate against employees or applicants for employment because of race, sex, age, color, religion, disability, national origin, veteran status, genetic information, gender identity, or sexual orientation. The University will take affirmative steps to ensure that applicants and employees are treated in a nondiscriminatory manner during all aspects of employment. The University's commitment to equal opportunity principles applies to all aspects of employment, including training, recruitment, promotion, benefits and compensation. UTEP's commitment to providing equal opportunity also applies to students, applicants for admission, and other beneficiaries who seek access to our programs, facilities or services.

The Equal Opportunity Office (EOO) is the campus resource for:

- Equal opportunity and affirmative action
- Discrimination and sexual harassment prevention
- Title IX
- Work-related ADA accommodations

Responsibility for implementing the Equal Opportunity Policy rests with every member of the University community. Any member of the University community who engages in discrimination or other conduct in violation of University policy is subject to the full range of disciplinary action, up to and including separation from the University.

EQUAL OPPORTUNITY is the availability of the same chance, rights, access or consideration for all persons regardless of race, sex, national origin, disability, color, religion, age, genetic information, veteran status, sexual orientation, or gender identity. This term generally applies to employment, but also to other areas, including education.

A PROTECTED CLASS is a group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. The following characteristics are protected by federal law:

- **Race**
- **Sex**
- **Veteran status**
- **Color**
- **Age**
- **Sexual orientation**
- **National origin**
- **Disability**
- **Gender identity**
- **Genetic information**
- **Religion**

What is Discrimination?

Discrimination is any different or unequal treatment of a person or group of persons based on any of the protected classes. It is illegal when the difference in treatment is based on a protected class. There are two types of discrimination:

- **Disparate Treatment** occurs when an employee or student or group of employees or students are treated differently than another based on a protected class.
- **Disparate Impact** occurs when a policy or practice, no matter what the intent, has an unequal impact on members of a protected class.

What Is Harassment?

Harassment is the result of persistently being tormented, troubled or badgered by repeated annoyances, threats, demands or other behavior or conduct. Harassment based on any of the protected classes is considered a form of discrimination and is prohibited by UTEP policy, and state and federal law.

- Hostile environment is unwelcome conduct that is based on a protected class, where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive and interferes with an employee's ability to perform his or her job.

UTEP is committed to an environment free from discrimination and harassment.

SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

The University of Texas at El Paso is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act). Sexual misconduct is a form of sex discrimination and will not be tolerated. Sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence. Individuals who engage in sexual misconduct and other inappropriate sexual conduct will be subject to disciplinary action.

The University will take prompt disciplinary action against any individuals within its control that violate this policy. The University encourages any student, faculty, staff or visitor to promptly report violations of this policy to a responsible employee.

This policy applies to all University administrators, faculty, staff, students, and third parties within the University's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off University property, if it potentially affects the complainant's education or employment with the University. It also applies regardless of the gender, gender identity or sexual orientation of the complainant or the respondent.

What is Sexual Misconduct?

Sexual misconduct is a broad term that encompasses a range of nonconsensual sexual activity or unwelcome behavior of a sexual nature. The term includes, but is not limited to, sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking.

What is Sexual Harassment?

Sexual harassment is defined as unwelcome conduct of a sexual nature including, but not limited to, unwelcome sexual advances, requests for sexual favors, and/or other verbal, nonverbal or physical conduct of a sexual nature and when:

- The submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in University activities;
- The submission to or rejection of such conduct by an employee or student is sufficiently severe or pervasive that it interferes with the individual's education, employment, or participation in University activities;
- Such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in University activities, or creating an intimidating, hostile, or offensive environment.

Important facts to consider about **CONSENT**:

Consent is:

- Voluntary and mutually understandable agreement that clearly indicates a willingness to engage in each instance of sexual activity
- Negotiable at each stage of intimacy: saying yes to one sexual act does not indicate yes to everything
- Past consent does not imply future consent
- Consent can be withdrawn at any time

Consent is not effective if it results from:

- Use of physical force
- Threat of physical force
- Giving in because of intimidation or coercion
- Incapacitation
- Any other factor that would eliminate an individual's ability to exercise his/her own free will to choose whether or not to have sexual activity

Past submission to behavior does not negate a person's right to file a complaint.

Types of Sexual Harassment

- **Quid Pro Quo ("This for That")** occurs when an employee or student is asked directly or indirectly to submit to a sexual advance in exchange for an employment or academic benefit. Submission or rejection of such advances is used as the basis for employment or academic decisions that affect the individual or is made a condition of employment or academic participation. This type of harassment generally requires a power imbalance, where the harasser is in a position to grant or deny benefits.
- **Sexual favoritism** occurs when opportunities or benefits are granted to an individual based on his/her submission to sexual advances or requests for sexual favors, while other individuals are denied such benefits.

Forms of Sexual Harassment

Verbal, for example:

- Sexual innuendos, comments, questions or sexual remarks about clothing/body or sexual activities
- Repeated sexually oriented kidding, teasing, joking or flirting
- Suggestive or insulting sounds such as whistling
- Offensive or crude language
- Sexual propositions or invitations; persistent unwanted sexual or romantic attention
- Deliberate, repeated humiliation or intimidation based upon sex

Nonverbal, for example:

- Offensive or obscene looks, gestures or facial expressions
- Winking, blowing kisses, licking lips
- Looking a person up and down (“elevator eyes”), staring or leering
- Sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials.

Physical, for example:

- Patting, pinching, hugging, massaging, brushing up against the body, or any other unwelcome touching or feeling

It's about PERCEPTION.

Remember that everyone has a different idea of what is uncomfortable or objectionable. You may think an employee or student is being too sensitive because he/she is offended by a comment or behavior that does not offend you. Everyone has a right to his/her feelings and you have

a responsibility to immediately stop any offending behavior.

Who Harasses/Gets Harassed?

There are no boundaries, men and women can be victims of sexual harassment as well as harassers. Harassment can occur between people of the opposite sex or the same sex.

The harasser can be the victim's supervisor or professor, a supervisor in another area, a co-worker or fellow student, or a nonemployee or nonstudent. The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct. A third party may file a sexual harassment complaint.

CONSENSUAL RELATIONSHIPS

The University of Texas at El Paso is committed to maintaining learning and work environments as free as possible from conflicts of interest and favoritism. The University recognizes that two consenting adults should be free to conduct a personal relationship where the relationship does not interfere with the goals and policies of the University. Some romantic, dating or sexual relationships, while consensual, create conflicts of interests.

Prohibited Consensual Relationships

The following consensual relationships, even if a single event, are prohibited:

- A supervisor (to also include faculty members) and supervisee regardless of whether the supervisory relationship is direct or indirect, unless the supervisor discloses the relationship to the Office of Human Resources in advance and a management plan is in effect.

- A coach or athletic staff and any student athlete or student assigned to or associated with the athletics department, such as interns and student employees.
- A faculty member and a student who is enrolled in the faculty member's course or otherwise under the supervision of the faculty member.

It's about POWER.

Sexual harassment often involves a power imbalance, where people use the power they have over others for their own personal gain or pleasure, and where the victim feels unable to reject the harassing behavior because it is coming from a person in authority.

TITLE IX

The essence of Title IX is that an institution may not exclude, separate, deny benefits to, or otherwise treat differently any person on the basis of sex. It protects students, employees, applicants for admission and employment, and other persons from all forms of sex discrimination such as sexual harassment and acts of sexual violence. Sexual violence may include rape, sexual assault, sexual battery, sexual coercion, stalking and relationship violence.

To file a complaint or obtain more information about Title IX, please refer to the University's designated Title IX Coordinator and/or Deputy Coordinators:

Sandy Vasquez, Title IX Coordinator

Investigation of concerns related to **faculty and staff**

Assistant Vice President

Equal Opportunity and Compliance Services

Chief Compliance Officer and Ethics Officer

ADA Coordinator

Office of Equal Opportunity

Kelly Hall, Room 302

915-747-5662

svasquez@utep.edu

eoaa@utep.edu

Deputy Title IX Coordinator

Assistant Vice President for Student Support

Oversees investigations of concerns related to **students**

For investigations or to report a concern related to students,
contact:

Office of Student Conduct and Conflict Resolution

Union Building East, Room 303

915-747-8694

studentconduct@utep.edu

Catie McCorry-Andalis, Ed.D., Deputy Title IX Coordinator

Education, Training and Outreach

Associate Vice President and Dean of Students

Office of Student Life

Union Building West, Room 102

915-747-5648

cmandalis@utep.edu

dos@utep.edu

Please visit www.utep.edu/titleix to obtain information about interim measures and on-going assistance as well as available on/off campus resources pertaining to Title IX.

It's about the IMPACT.

If someone did not intend to offend someone with a joke or comment or other behavior, then it isn't sexual harassment, right?

Sexual harassment is determined by the impact of the behavior and not by the intent.

REPORTING: DISCRIMINATION AND HARASSMENT

UTEP encourages any person who believes that he or she has been subjected to discrimination or harassment to immediately report the incident to one of the following:

- Equal Opportunity Office
- Office of Student Conduct and Conflict Resolution when the accused individual is a student.
- Supervisor
- Responsible employee: a University employee who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty.
- UTEP Police Department (optional)

In no case will a complainant be required to directly confront the person accused of misconduct. All investigations will use the preponderance of the evidence (more likely than not) standard to determine violation.

Any member of the University community who believes he or she has been subject to discrimination or harassment may utilize an informal or formal resolution process.

Informal Resolution Process: May include strategies for the individual to inform the offending party that his or her behavior is inappropriate and should stop; conversation with the accused to make them aware of their behavior and remind them of expected behaviors and adherence to UTEP policy.

Formal Complaint: Each situation begins with a written statement by the complainant. The accused will have an opportunity to respond. An investigation will follow and the findings will be part of a written report that may include recommendations. The complainant and the accused may respond to the findings and recommendations. The written report and responses will be provided to the respective vice president for their review and final determination.

Please contact the EO Office to discuss your concern or you may complete and submit the detachable EOO Complaint Form at the end of this booklet.

YOU Can Take Action

Do not accept discrimination and harassment as the “way things are.” Ignoring discrimination and/or harassment will not make it go away.

- **Know Your Rights.** Discrimination and harassment based on a protected class is in violation of UTEP policy, and state and federal law.
- **Speak Up At The Time.** Say “NO” clearly and firmly. Tell the person that his/her advances or behavior are unwelcome/inappropriate and you want it stopped. Do not delay. If a person’s behavior makes you uncomfortable, say so – set boundaries early. If you do not feel comfortable confronting the harasser yourself, get help.
- **Keep Records.** Note the times, dates, places, witnesses and the nature of the discriminatory or harassing behavior – what was said, the tone and how you responded.

- **Seek Advice.** To determine whether your situation is discrimination or harassment, seek help – the earlier, the better.

The campus office designated to assist with complaints is the EOO at Kelly Hall, Room 302.

Outside entities:

Office for Civil Rights, U.S. Department of Education,

www.hhs.gov/ocr

Equal Employment Opportunity Commission (EEOC),

www.eeoc.gov

*It's Everyone's Responsibility to Ensure
a Harassment and Discrimination Free
Environment*

RETALIATION

Retaliation is prohibited by UTEP policy and federal law. An employee or student who retaliates in any way against an individual who has brought a complaint pursuant to UTEP's policies, or an individual, who has participated in an investigation of such a complaint, is subject to disciplinary action, including dismissal. A complainant or participant in an investigation is protected from retaliation, regardless of the outcome of the underlying complaint.

Confidentiality

Complaints and information obtained during an investigation will be kept confidential to the extent permitted by law. Information gathered will be used for the investigation of the complaint and such information will be maintained in the EOO or the Office of Student Conduct and Conflict Resolution, as appropriate. Relevant information will be provided only to those persons who need to know in order to achieve a

timely resolution of the complaint. Participants in a complaint investigation, including the complainant, respondent and witnesses are expected to maintain confidentiality during and after an investigation.

You have the responsibility to:

- Immediately stop any behavior if you are in doubt that it may be interpreted as discriminatory and/or harassing
- Be proactive – speak up if behavior is offensive or inappropriate – set boundaries early
- Report conduct that is in violation of UTEP policy
- Act in a professional manner at all times

Supervisors and University administrator's responsibility:

- Set the bar high for appropriate workplace/academic conduct
- Make decisions in accordance with equal opportunity law and UTEP policy
- Respond immediately if they know or suspect possible discrimination, harassment or any inappropriate behavior
- Contact the EOO for guidance in addressing situations

You have the right to:

- Work and learn in an environment that is free from discrimination and harassment
- Address or report conduct that you believe is inappropriate or in violation of policy, whether it is happening to you or to someone else

It's about RESPECT.

Being sensitive to each other's differences and respectful of everyone's rights to feel comfortable at work and school can help eliminate discrimination and harassment.

Policy Information

The full text of the University's policies can be found in the Handbook of Operating Procedures (admin.utep.edu/hoop)

Section VI, Chapter 01:

Equal Opportunity/Affirmative Action/Non-Discrimination

Section VI, Chapter 03:

Sexual Harassment and Sexual Misconduct

Section VI, Chapter 04:

Consensual Relationships

Section II, Chapter 01:

Student Conduct and Discipline



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