

Institutional Rule 3

Prohibition Against Sexual Misconduct

I. Preamble

At the University of Austin (UATX), we prepare the next generation of courageous leaders and citizens for the world. That mission relies on a campus culture grounded in respect, integrity, and accountability.

Maintaining that culture means setting clear expectations for conduct. UATX prohibits all forms of sexual misconduct—including sexual harassment, sexual assault, dating violence, and stalking. This behavior violates our values and has no place in our community. We also prohibit retaliation against anyone who reports sexual misconduct or participates in a related investigation or resolution process in good faith.

UATX adopts this rule in accordance with the Texas Education Code and the Texas Administrative Code.¹ The rule protects the right of any victim of sexual misconduct to report the incident to the university and receive a prompt, fair, and transparent resolution.

II. Scope

This rule applies to all students, faculty, staff, and third parties engaged in university programs or activities, regardless of location.

III. Safety, Assistance, and Accommodations

UATX encourages individuals impacted by sexual misconduct—including sexual assault, sexual harassment, dating violence, or stalking—to prioritize their safety, health, and well-being. In an emergency, individuals should call 911 or contact the UATX Security Manager.

If medical care is needed, individuals are strongly encouraged to seek treatment as soon as practicable. Prompt hospital visits are important in cases of sexual assault not only for addressing physical injuries but also for preserving forensic evidence, which may be

¹ While the University of Austin does not accept federal funding and is therefore not subject to the mandates of Title IX of the Education Amendments of 1972, our sexual misconduct policies are designed to meet or exceed the standards set by the Texas Education Code. These state requirements ensure that students have the right to report sexual harassment, sexual assault, dating violence, and stalking, and to receive a fair, prompt, and equitable resolution process.

helpful if legal action is pursued. It is also important to preserve any evidence in your possession, such as clothing, messages, photos, or other items, which may be relevant to understanding or documenting the incident. A Sexual Assault Forensic Exam (SAFE) can typically be conducted within 120 hours of the incident at an emergency room or designated facility. Local facilities offering SAFE exams include St. David's Medical Center (919 E. 32nd St., Austin, Texas, (512) 476-7111) and Dell Seton Medical Center at The University of Texas (1500 Red River St., Austin, Texas, (512) 324-7000).

UATX's Sexual Misconduct Response Coordinator (SMRC) can assist individuals in identifying care providers, understanding their options, and arranging appropriate accommodations. Accommodations may include changes to housing, transportation, or work arrangements. In accordance with Texas Education Code § 51.282(e)(2), any student who is the Complainant or Respondent in a pending sexual misconduct case under this rule may request to drop a course in which both parties are enrolled. If such a request is granted, the student shall be allowed to withdraw from the course without academic penalty, and the withdrawal shall not be noted as a disciplinary action.

UATX does not operate an on-campus counseling center but shall ensure that both Complainants and Respondents have equal access to referrals for medical or mental health services following a report of sexual misconduct. UATX may refer both parties to the same off-campus clinic or provider group, provided that different practitioners are assigned to each party and no provider offers services to both individuals in the same matter.

Individuals may also request a list of local support resources from the SMRC. UATX will work to facilitate timely access to care, but does not mandate treatment or prescribe specific providers.

Outside of seeking medical care, a victim of a crime should consider whether to report the incident to law enforcement. UATX respects a victim's right to choose whether to report the crime to law enforcement, to be assisted by the UATX in reporting the crime to law enforcement, or to decline to report the crime to law enforcement. However, in limited circumstances—such as where there is a serious or ongoing threat to the safety of the campus community, a legal obligation to report, or evidence of repeated or escalating harm—UATX may notify police.

IV. Definitions

1. **Advisor:** A Respondent may have a single advisor accompany them to a hearing to provide guidance and support. An advisor cannot directly participate in the hearing unless explicitly allowed under this rule. If an advisor becomes

disruptive, they may be muted or removed from the hearing. An advisor may be anyone except a student or employee implicated in the same disciplinary matter as the respondent, a witness in the hearing, or a member of UATX leadership. A Respondent or Complainant must execute the necessary privacy authorizations before their advisor may join the hearing.

2. **Complainant:** An individual who was alleged to be the victim of prohibited conduct under this rule.
3. **Conduct Officer:** A Conduct Officer investigates the facts and circumstances underlying a report of misconduct, assesses whether evidence supports a finding that it is more likely than not that the misconduct occurred, and proposes an appropriate sanction if needed. The President shall appoint one or more Conduct Officers to investigate allegations of misconduct under this rule. Conduct Officers serve at the pleasure of the President.
4. **Confidential Employee:** One or more employees designated by UATX whom a student may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking.
5. **Constitution or UATX Constitution:** The formally adopted version of the Constitution of the University of Austin.
6. **Disciplinary Council:** The President, Provost, and Deans shall together constitute the Disciplinary Council, with the President serving as chair, which may hear appeals.
7. **Formal Complaint:** A written document filed by a Complainant or the SMRC that initiates a formal grievance process related to allegations of prohibited conduct.
8. **Hearing:** A structured adjudicative process used to determine whether a rule violation occurred and, if applicable, what sanction is appropriate.
9. **Hearing Officer:** A Hearing Officer presides over a hearing. The President shall appoint one or more Hearing Officers as needed. Hearing Officers serve at the pleasure of the President.
10. **Interim Action:** A temporary, non-disciplinary measure imposed to protect the safety, well-being, or rights of any individual or the University community before the processes outlined in this rule come to a conclusion.

11. **Major Sanction:** A sanction of suspension, expulsion, termination of employment, or withholding of a degree.
12. **Minor Sanction:** A sanction that does not involve suspension, expulsion, termination of employment, or withholding of a degree.
13. **Respondent:** A person accused of conduct in violation of this rule.
14. **Sexual Misconduct Response Coordinator (SMRC):** A designated employee responsible for overseeing UATX's compliance with laws, rules, and regulations prohibiting sexual misconduct. The President shall appoint an SMRC. The President or SMRC may designate additional employees to serve as deputies to the SMRC, as needed.²

V. Prohibited Conduct

UATX strictly prohibits the following types of behaviors. Those determined to have engaged in this misconduct may be subject to sanctions, up to permanent separation from UATX.

1. **Sexual Harassment:** Unwelcome, sex-based verbal or physical conduct that:
 - a. in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment;
 - b. in the education context, is sufficiently severe, persistent, or pervasive that it interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution; or
 - c. conditions the provision of university aid, benefit, service, or terms of employment or educational experience on an individual's participation in unwelcome sexual conduct.

Speech and expression do not constitute actionable sexual harassment unless it meets these definitions.

2. **Sexual Assault:** Any offense that meets the definition of rape, fondling, incest, or statutory rape as defined in the FBI's Uniform Crime Reporting program.

² The SMRC and Deputy SMRC serve as the functional equivalents of a Title IX coordinator and deputy Title IX Coordinator under Texas law.

- a. **Rape:** Penetration, however slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent.
- b. **Fondling:** Touching of the private body parts of another person for sexual gratification, without consent.
- c. **Incest:** Sexual intercourse between persons who are related within the degrees prohibited by law.
- d. **Statutory Rape:** Sexual intercourse with a person under the statutory age of consent.

Consent is a knowing, voluntary, and mutual agreement to engage in sexual activity. It must be communicated clearly through words or actions and must demonstrate a willingness to participate in each specific act.

Consent is not valid if obtained through force, threats, or coercion. A person cannot give consent if they are:

- a. Under the legal age of consent;
 - b. Unconscious, asleep, or otherwise physically unable to communicate;
 - c. Unaware that the sexual activity is occurring; or
 - d. Subject to pressure or exploitation by a person in a position of authority (including University officials or employees acting within the scope of their responsibilities).
3. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. It includes sexual or physical abuse or threats of such abuse.
 4. **Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

Allegations involving prohibited conduct are resolved through the grievance procedures set forth in the section titled Process for Allegations of Prohibited Conduct (Section X).

VI. Other Misconduct Prohibited Under this Rule

In addition to Prohibited Conduct, the following acts of misconduct are prohibited. Those determined to have engaged in this misconduct may be subject to sanctions, up to permanent separation from UATX.

1. **Discrimination Based on Sex or Gender:** Disparate treatment of an individual on the basis of sex or gender—including, but not limited to, sexual orientation or pregnancy status—that adversely affects the terms and conditions

of the individual's employment or substantially interferes with the individual's access to educational programs or benefits.

2. **Retaliation:** Any materially adverse action taken against an individual for reporting or participating in an investigation of alleged misconduct in good faith. This includes intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by law, rule, or this policy.
3. **Failure to Adhere to Interim Measures:** Noncompliance with temporary, university-imposed actions designed to protect the safety, well-being, or rights of an individual or the community. This includes violating no-contact directives, restricted access orders, or interim suspensions.
4. **Failure to Report Prohibited Conduct:** An employee's knowing failure to make a required report of sexual harassment, sexual assault, dating violence, or stalking involving a student or employee. Under Texas Education Code § 51.252, employees must promptly report such incidents to the SMRC or deputy SMRC if they witness or receive information about them, regardless of when or where the incident occurred.
5. **Providing False Information or Interfering with Investigations:** Knowingly making materially false statements, obstructing the investigative process, or tampering with evidence in a misconduct proceeding. This includes misrepresenting facts to the SMRC, Conduct Officer, Hearing Officer, Disciplinary Council, or Adjudicative Panel as well as submitting fabricated evidence, coercing or attempting to influence witnesses, or engaging in other acts intended to mislead or disrupt the integrity of the process.
6. **Prohibited Employee-Student Relationship:** Romantic or sexual relationships between employees and enrolled students are prohibited, regardless of consent or supervisory role.

Allegations involving misconduct under this section are resolved through the grievance procedures set forth in the section titled Process for Allegations of Other Misconduct Under this Rule (Section XI).

If a case involves both prohibited conduct and misconduct under this section, the entire matter shall be resolved using the grievance process for prohibited conduct.

VII. Standard of Evidence

The standard for determining whether a violation has occurred is the preponderance of the evidence. This means the evidence must show that it is more likely than not that a violation occurred. Decision-makers shall consider the totality of the circumstances to assess whether the evidence meets this standard.

The formal rules of evidence do not apply to the process outlined in this rule, as it is not a formal legal proceeding.

VIII. Sanctions

Possible sanctions for violation of this rule include, but are not limited to: written warnings; educational assignments; no-contact directives; loss of privileges; probation; community service; restitution or reimbursement; suspension of rights and privileges; prohibition from entering or residing in student housing; suspension; expulsion; termination of employment; or other sanctions deemed appropriate under the circumstances.

IX. Reporting

UATX encourages anyone who has experienced, witnessed, or knows of misconduct to report it. Reports may be submitted via email (compliance@uaustin.org), to the SMRC or deputy SMRC in person, or through the “Submit a Concern” link on UATX’s website.

Reporting allows the University to connect individuals with support services, assess safety risks, and determine appropriate next steps. Anyone—regardless of whether they are directly involved in the incident—may submit a report. Anonymous reports are accepted, using the “Submit a Concern” link on UATX’s website, though anonymity may limit the University’s ability to take further action.

Under Texas Education Code § 51.252, employees who witnesses or otherwise learn about an incident of sexual harassment, sexual assault, dating violence, or stalking involving a student, faculty member, or staff member must promptly report it to the SMRC or deputy SMRC in person, via email (compliance@uaustin.org), or through the “Submit a Concern” link on UATX’s website.

Failure to comply with mandatory reporting obligations may result in legal and institutional consequences. Texas Education Code § 51.255 makes it a crime to knowingly fail to report. Section 51.255 also mandates that UATX shall terminate the employment of any employee determined, through established disciplinary procedures, to have committed such an offense.

No employee is required to make a report under this section concerning (1) an incident in which the employee was a victim of sexual harassment, sexual assault, dating violence, or stalking; or (2) an incident about which the employee received information as part of a public awareness event related to sexual misconduct sponsored by UATX or a student organization.

An enrolled student is not required to report an incident of sexual harassment, sexual assault, dating violence, or stalking. A student who reports such an incident to UATX, a health care provider, a law enforcement agency, or another third party is entitled to accommodations as necessary. Please contact the SMRC to learn more about accommodations.

UATX has designated one or more employees as persons to whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking. Absent the student's consent, these confidential employees will only report the type of incident disclosed and must not include information that would violate the student's expectation of privacy. A list of confidential employees and other confidential resources can be found on UATX's website.

X. Process for Allegations of Prohibited Conduct

1. Initial Review

After receiving a report of alleged prohibited conduct, the SMRC, with assistance from the General Counsel, conducts an initial review to determine whether the report implicates this rule, requires referral to other officials for processing, should be referred for informal resolution, or can be closed without further action.

If the allegations fall under the rule, the SMRC will contact the potential victim, referred to herein as a Complainant, to offer supportive measures and resources as well as gather information about what, if anything, occurred.

If a Complainant wishes to pursue a grievance related to the alleged prohibited conduct, they may submit a formal complaint to the SMRC. Formal complaints must name a Respondent and describe conduct that, if true, would violate this rule. The SMRC may also initiate a formal complaint when necessary.

Within two days of receiving a formal complaint, the SMRC must either (1) refer the matter to a Conduct Officer, (2) dismiss the complaint, in whole or in part, or (3) refer the matter to another official for processing under a different rule.

If the complaint is dismissed in whole or in part, the SMRC shall notify the Complainant in writing and inform them of their right to appeal the dismissal. A Complainant may submit a written appeal to the Disciplinary Council within five days of receiving the dismissal notice. Failure to submit a timely appeal constitutes a waiver of the right to contest. A Complainant may appeal a dismissal decision of the SMRC only once. The Disciplinary Council may summarily dismiss any repeated or interlocutory appeals.

The Complainant may appeal the SMRC's decision on one or more of the following grounds:

1. **Material Procedural Error:** A procedural error occurred that materially affected the outcome.
2. **New Evidence:** New evidence that was not reasonably available at the time the determination regarding dismissal was made, and that could affect the outcome of the matter.
3. **Conflict of Interest or Bias:** Involvement of a biased or conflicted individual compromised fairness.
4. **Violation of the UATX Bill of Rights:** The outcome infringes upon a right specifically protected under the Constitution's Bill of Rights.

A Complainant must cite a specific ground(s) for appeal and include supporting evidence.

Upon receiving an appeal, the Disciplinary Council shall determine whether a written response from the SMRC is necessary. If no response is requested, the Council shall issue a decision within five days of receiving the appeal. If a response is requested, the Council shall issue a decision within five days of receiving the SMRC's response. The Council may affirm, modify, overturn, or remand the dismissal decision. If the Disciplinary Council does not act within the specified timeframe, the appeal shall be deemed denied. In such cases, the SMRC will notify Complainant in writing that the appeal period has lapsed and the dismissal decision is final.

2. **Interim Action**

In rare instances, UATX officials may need to impose interim actions to protect a victim, witness, or others from physical harm or retaliation. An interim action is a temporary, non-disciplinary measure imposed against a Respondent to protect the safety or rights of any individual or the University community before the processes outlined in this rule come to a conclusion.

Interim actions may include no-contact directives, temporary removal from classes or housing, restrictions on facility access, or interim suspension. These are precautionary and non-disciplinary.

The President or SMRC, after consulting with the President, may impose interim actions. Respondents will receive written notice outlining the reasons for the interim action and notice of the process to challenge it.

A Respondent may contest interim actions in writing to the President within three days of being notified of the interim action. The interim action remains in effect pending review and will terminate automatically at the conclusion of the process outlined in this rule. The President shall notify the Respondent if the interim action is affirmed, lifted, or modified.

Nothing in this section or rule limits or prevents UATX from placing an employee on investigative leave, administrative leave, or modified job assignment pending the resolution of a matter. Decisions to place an employee on leave are unappealable.

3. Grievance Procedures

If a formal complaint is lodged and not otherwise disposed of as described above, the SMRC shall refer the matter to a Conduct Officer for investigation. The SMRC shall provide notice to both the Complainant and Respondent of the referral, which will include the formal complaint, instructions on how to access the shared folder for use during the matter, and their rights under this rule.

The Conduct Officer shall interview the Complainant and Respondent and offer them the opportunity to provide a list of potential witnesses and evidence. If the Conduct Officer is unable to interview either party due to factors outside the Conduct Officer's control, or either party otherwise fails to participate without good cause, the Conduct Officer may proceed with the investigation based on the available information.

At any time, the Conduct Officer may recommend that the SMRC dismiss the matter. The SMRC shall respond to the recommendation within three days of receiving it.

Within seven days of receiving the referral, the Conduct Officer shall issue a draft report and recommendation. The report shall include findings of fact, a determination using the preponderance of the evidence standard, and, if applicable, a proposed sanction. Both parties shall receive access to the relevant evidence underlying the report and recommendation. The parties have seven days to submit a written response to the

Conduct Officer, if they choose. After considering the parties' responses, the Conduct Officer shall issue a final report to the parties as well as the SMRC.

If either party wishes to challenge the Conduct Officer's final report and recommendation, they may request a hearing. Such a request must be submitted in writing to the SMRC within three days of receiving the final report. Failure to submit a timely request for a hearing will waive the party's right to further contest the Conduct Officer's findings. If no hearing request is received by the SMRC before the deadline, the Conduct Officer's findings become final, and the sanctions, if any, go into effect immediately.

4. Hearing Procedures

Upon receiving a timely hearing request, the SMRC will request that the President or his designee appoint a Hearing Officer. The President or his designee shall select a Hearing Officer within two days of receiving the SMRC's request.

Within two days of the appointment, the Hearing Officer shall notify the parties of the hearing date, time, and login information for the hearing. The hearing will be conducted remotely.

At least three days before the hearing, each party must upload to the shared folder:

1. All evidence the party intends to introduce.
2. A list of anticipated witnesses, including a brief summary of their expected testimony. The parties are responsible for notifying and securing the attendance of their own witnesses.
3. The necessary privacy authorizations for their advisor, if applicable.

Any request to reschedule a hearing must be submitted at least 48 hours before the scheduled hearing time, unless justified by an emergency.

Each party may be accompanied at the hearing by an advisor of their choice. If a party has an advisor, the advisor may conduct questioning of the other party and witnesses, subject to rulings by the Hearing Officer. If a party would like an advisor but does not have one, the University will appoint one upon request, at no cost to the party. Requests for a University-provided advisor must be made in writing to the SMRC at least five days before the hearing. If a party chooses not to have an advisor, they may question witnesses themselves, but may not directly question the other party. An unrepresented party may submit written questions to the Hearing Officer to be asked on their behalf, subject to rulings by the Hearing Officer. The Hearing Officer may allow reasonable

breaks so the unrepresented party may formulate follow-up questions to submit to the Hearing Officer to ask on their behalf.

At the hearing, the Hearing Officer will:

1. Open the hearing, explain the procedures, and notify the parties of their rights under the rule;
2. Allow each party and the Conduct Officer to make brief opening statements;
3. Ensure both parties have an opportunity to present evidence and question witnesses through the methods set out above;
4. Make rulings on relevance and procedural matters; and
5. Maintain order and enforce reasonable time limits to ensure a focused and fair proceeding.

The Hearing Officer may pose questions to any party or witness and may exclude any questioning, evidence, or witness testimony that is irrelevant, harassing, or unduly repetitive. The Hearing Officer may exclude testimony or fashion other remedies in the event a party or witness refuses to be cross-examined.

The hearing will be recorded. The Hearing Officer (or designee) shall upload the recording and transcript, if available, to the shared folder within two days of the hearing's conclusion.

Within five days after the hearing, the Hearing Officer shall issue a written decision including: findings of fact; a determination whether a rule violation occurred using the preponderance of the evidence standard; any remedies necessary to restore the Complainant's access to the education program or activity or workplace; a sanction, if necessary; and notice of each party's right to appeal to the Disciplinary Council.

Any sanction imposed shall take effect after the expiration of the five-day appeal window to seek review by the Disciplinary Council, unless an appeal is filed. If an appeal is timely submitted, any sanction shall be stayed pending resolution of the appeal by the Disciplinary Council.

Either party may appeal a Hearing Officer's determination. The appeal must be submitted to the Disciplinary Council—with a copy to the SMRC, Conduct Officer, and nonappealing party—within five days of notification of the Hearing Officer's decision. An appealing party may appeal only the final decision of the Hearing Officer and may do so only once. The Disciplinary Council may summarily dismiss any repeated or interlocutory appeals. Failure to timely appeal waives the right to contest the Hearing Officer's decision.

5. Appeal Procedures

Appeals may be filed on one or more of the following grounds:

1. **Material Procedural Error:** A procedural error occurred that materially affected the outcome.
2. **New Evidence:** New evidence that was not reasonably available at the time the determination regarding responsibility was made, and that could affect the outcome of the matter.
3. **Misapplication of Standard of Proof:** The preponderance of the evidence standard was misapplied.
4. **Conflict of Interest or Bias:** Involvement of a biased or conflicted individual compromised fairness.
5. **Disproportionate Sanction:** The punishment imposed is unduly harsh relative to the violation.
6. **Violation of the UATX Bill of Rights:** The outcome infringes upon a right specifically protected under the Constitution's Bill of Rights.

An appealing party must cite to a specific ground(s) for appeal and include supporting evidence. The nonappealing party and Conduct Officer may submit a written response within five days of receiving notice of the appeal.

The Disciplinary Council shall review the appeal and issue a written decision to the parties within five days of the expiration of the deadline to file a response. The Council may accept, modify, or reject the Hearing Officer's decision, or to remand for further proceedings. If no action is taken within that timeframe, the appeal is deemed denied, and the Hearing Officer's decision is adopted as final. In such cases, the SMRC will notify the parties in writing that the appeal period has lapsed and the decision is final. The sanction then goes into immediate effect.

6. Discretionary Constitutional Review

In the event a student or faculty member receives a major institutional sanction—suspension, expulsion, termination of employment, or the withholding of a degree—and believes the sanction violated the UATX Bill of Rights, they may petition the Adjudicative Panel for discretionary review pursuant to Article IV of the Constitution. Such a petition must be submitted within 14 days of receiving notice of the final decision of the Disciplinary Council. The submission must be made in accordance with the Panel's rules of procedure, which are listed on UATX's website along with this rule.

If the contested sanction arises from a finding of sexual assault, sexual harassment, dating violence, or stalking, the Complainant may choose to participate in the proceeding before the Adjudicative Panel as outlined in the Constitution.

The Adjudicative Panel may decline to hear a petition without explanation. If it elects to proceed, its opinion will be binding and may include recommendations regarding further institutional action.

A student or faculty member may request discretionary review of only the final decision of the Disciplinary Council and may do so only once.

The applicable sanction remains in effect while the case is under consideration by the Panel.

XI. Process for Other Misconduct Under this Rule

This section sets out the process for allegations of discrimination based on sex or gender, retaliation, failure to adhere to interim measures, failure to report, providing false information, interfering with an investigation or resolution process, and prohibited employee-student relationships.

1. Initial Review

When concerns arise about an at-will employee engaging in misconduct under this section—such as sex- or gender-based discrimination, retaliation, failure to adhere to interim measures, failure to report, providing false information, interfering with an investigation or resolution process, or engaging in a prohibited employee-student relationship—the reporting party shall promptly submit the report to compliance@uaustin.org, to the SMRC in person, or via the “Submit a Concern” link on the UATX website. The SMRC will coordinate with the General Counsel and other relevant officials to investigate the matter, address any misconduct promptly, and, if appropriate, issue disciplinary action. Employment actions taken against an at-will employee in response to this type of misconduct are final and not subject to appeal.

When concerns arise about a faculty member (serving with a fixed term) or student committing misconduct under this section, the report shall be promptly provided to the SMRC to conduct an initial review and determine whether the report warrants further action.

If the report does not warrant further action, the SMRC shall close the matter and document the rationale. If further action is warranted, the SMRC shall refer the matter to a Conduct Officer for investigation. The SMRC shall provide notice to the Respondent

of the referral, which will include the allegations, instructions on how to access the shared folder for use during the matter, and their rights under this rule.

2. Investigation

The Conduct Officer shall interview the Respondent and offer them the opportunity to provide a list of potential witnesses and evidence. If the Conduct Officer is unable to interview the Respondent due to factors outside the Conduct Officer's control, or the Respondent otherwise fails to participate without good cause, the Conduct Officer may proceed with the investigation based on the available information.

At any time, the Conduct Officer may recommend that the SMRC dismiss the matter or resolve it outside of the formal process. The SMRC shall respond to the recommendation within three days of receiving it.

Within seven days of receiving the referral, the Conduct Officer shall issue a draft report and recommendation. The report shall include findings of fact, a determination using the preponderance of the evidence standard, and, if applicable, a proposed sanction. Respondent shall be given access to the relevant evidence underlying the report and recommendation. The Respondent shall have seven days to submit a written response to the Conduct Officer, if they choose. After considering the Respondent's response, the Conduct Officer shall issue a final report to the Respondent as well as the SMRC.

Any sanction imposed in the report and recommendation shall take effect after the expiration of the applicable appeal window set out below, unless an appeal is filed. If an appeal is timely submitted, the sanction shall be stayed pending resolution of the appeal.

3. Contesting the Report and Recommendation

Minor Sanction: If the Conduct Officer proposes a minor sanction, the Respondent may appeal to the Disciplinary Council. Appeals may be filed on one or more of the following grounds:

1. **Material Procedural Error:** A procedural error occurred that materially affected the outcome.
2. **New Evidence:** New evidence that was not reasonably available at the time the determination regarding responsibility was made, and that could affect the outcome of the matter.
3. **Misapplication of Standard of Proof:** The preponderance of the evidence standard was misapplied.

4. **Conflict of Interest or Bias:** Involvement of a biased or conflicted individual compromised fairness.
5. **Disproportionate Sanction:** The punishment imposed is unduly harsh relative to the violation.
6. **Violation of the UATX Bill of Rights:** The outcome infringes upon a right specifically protected under the Constitution's Bill of Rights.

Respondent must cite to a specific ground(s) for appeal and include supporting evidence.

The appeal must be submitted to the Disciplinary Council, copying the Conduct Officer and SMRC, within three days of receiving the Conduct Officer's final report. Failure to submit a timely appeal will waive the Respondent's right to further contest the Conduct Officer's findings. If the written appeal is not received before the deadline, the Conduct Officer's findings become final, and the sanctions go into effect immediately.

The Conduct Officer may submit a written response to the appeal within three days of receiving the appeal. The Disciplinary Council shall have five days from receipt of the Conduct Officer's response to accept, modify, or reject the Conduct Officer's report, or to remand for further proceedings. If no action is taken within that timeframe, the appeal is deemed denied, and the Conduct Officer's decision is adopted as final. In such cases, the SMRC will notify the parties in writing that the appeal period has lapsed and the decision is final. The sanction then goes into immediate effect.

A faculty member or student may appeal only the final report of the Conduct Officer and may do so only once. The Disciplinary Council may summarily dismiss any repeated or interlocutory appeals.

Major Sanction: If the Conduct Officer proposes a major sanction, the Respondent may challenge the report and recommendation at a hearing. A hearing request must be submitted in writing to the SMRC within three days of receiving the final report. Failure to submit a timely hearing request will waive the Respondent's right to further contest the Conduct Officer's findings. If no hearing request is received by the SMRC before the deadline, the Conduct Officer's finding is final, and the sanctions go into effect immediately.

4. **Hearing Procedures**

Upon receiving a timely hearing request, the SMRC will request that the President or his designee appoint a Hearing Officer. The President or his designee shall select a Hearing Officer within two days of receiving the SMRC's request.

Within two days of the appointment, the Hearing Officer shall notify the Respondent and Conduct Officer of the hearing date, time, and login information for the hearing. The hearing will be conducted remotely.

At least three days before the hearing, each party must upload to the shared folder:

1. All evidence the party intends to introduce.
2. A list of anticipated witnesses, including a brief summary of their expected testimony. The parties are responsible for notifying and securing the attendance of their own witnesses.
3. The necessary privacy authorizations for their advisor, if applicable.

Any request to reschedule a hearing must be submitted at least 48 hours before the scheduled hearing time, unless justified by an emergency.

The Respondent is permitted to have a single advisor attend the hearing to provide guidance and support. The Respondent is responsible for presenting their case, including questioning witnesses. An advisor cannot directly participate in the hearing. If an advisor becomes disruptive, they may be muted or removed from the hearing. The Respondent is responsible for arranging their advisor, who may be anyone except a student implicated in the same disciplinary matter as the accused student, a witness in the hearing, or a member of UATX leadership. The unavailability of an advisor on a particular date does not constitute a valid reason to reschedule a hearing. The Respondent must execute the necessary privacy authorizations before the advisor may join the hearing.

At the hearing, the Hearing Officer will:

1. Open the hearing, explain the procedures, and notify the Respondent of their rights under the rule;
2. Allow Respondent and the Conduct Officer to make brief opening statements;
3. Ensure Respondent has an opportunity to present evidence and question witnesses;
4. Make rulings on relevance and procedural matters; and
5. Maintain order and enforce reasonable time limits to ensure a focused and fair proceeding.

The Hearing Officer may pose questions to Respondent or witnesses and may exclude any questioning, evidence, or witness testimony that is irrelevant, harassing, or unduly repetitive. The Hearing Officer may exclude testimony or fashion other remedies in the event Respondent or a witness refuses to be cross-examined.

The hearing will be recorded. The Hearing Officer (or designee) shall upload the recording and transcript, if available, to the shared folder within two days of the hearing's conclusion.

Within five days after the hearing, the Hearing Officer shall issue a written decision including: findings of fact; a determination whether a rule violation occurred using the preponderance of the evidence standard; a sanction, if necessary; and notice of the right to appeal to the Disciplinary Council.

Any sanction imposed shall take effect after the expiration of the five-day appeal window to seek review by the Disciplinary Council, unless an appeal is filed. If an appeal is timely submitted, any sanction shall be stayed pending resolution of the appeal by the Disciplinary Council.

The Respondent and/or Conduct Officer may appeal a Hearing Officer's determination. The appeal must be submitted to the Disciplinary Council—with a copy to the SMRC and the nonappealing party—within five days of notification of the Hearing Officer's decision. Failure to timely appeal waives the right to contest the Hearing Officer's decision.

The Respondent and Conduct Officer may appeal only the final decision of the Hearing Officer and may do so only once. The Disciplinary Council may summarily dismiss any repeated or interlocutory appeals.

5. **Appeal Procedures**

Appeals may be filed on one or more of the following grounds:

1. **Material Procedural Error:** A procedural error occurred that materially affected the outcome.
2. **New Evidence:** New evidence that was not reasonably available at the time the determination regarding responsibility was made, and that could affect the outcome of the matter.
3. **Misapplication of Standard of Proof:** The preponderance of the evidence standard was misapplied.
4. **Conflict of Interest or Bias:** Involvement of a biased or conflicted individual compromised fairness.
5. **Disproportionate Sanction:** The punishment imposed is unduly harsh relative to the violation.
6. **Violation of the UATX Bill of Rights:** The outcome infringes upon a right specifically protected under the Constitution's Bill of Rights.

An appealing party must cite to a specific ground(s) for appeal and include supporting evidence. Upon receiving an appeal, the nonappealing party or Conduct Officer may submit a written response within five days of receiving notice.

The Disciplinary Council shall review the appeal and issue a written decision to the parties within five days of the expiration of the opposing party's deadline to file a response. The Council may affirm, modify, or overturn the Hearing Officer's decision, or remand the case for further proceedings. If the Disciplinary Council does not act within the specified timeframe, the appeal shall be deemed denied. In such cases, the SMRC will notify the parties in writing that the appeal period has lapsed and the Hearing Officer's decision is final. The sanction, if applicable, then goes into immediate effect.

6. Discretionary Constitutional Review

In the event a student or faculty member receives a major institutional sanction—suspension, expulsion, termination of employment, or the withholding of a degree—and believes the sanction violated the UATX Bill of Rights, they may petition the Adjudicative Panel for discretionary review pursuant to Article IV of the Constitution. Such a petition must be submitted within 14 days of receiving notice of the final decision of the Disciplinary Council. The submission must be made in accordance with the Panel's rules of procedure, which are listed on UATX's website along with this rule.

The Adjudicative Panel may decline to hear a petition without explanation. If it elects to proceed, its opinion will be binding and may include recommendations regarding further institutional action.

The applicable sanction remains in effect while the case is under consideration by the Panel.

A Respondent may request discretionary review of only the final decision of the Disciplinary Council and may do so only once.

XII. Conflicts of Interest

All UATX employees involved in any part of the sexual misconduct process—including the SMRC, investigators, and decision-makers—must be free from conflict of interest and bias against Complainants or Respondents generally, or any specific Complainant or Respondent. All employees are expected to assess their ability to serve impartially in any case. Any official assigned a role under this rule who determines they cannot serve impartially must recuse themselves. The President may also remove an official who has

displayed that they cannot faithfully fulfill their function impartially and without bias. The President may appoint a qualified alternate, including a trained third-party professional from outside the university.

XIII. Calculation of Time

For this rule, all periods referenced in days refer to business days—those days on which the University of Austin is open and conducting regular operations. Weekends, holidays, and other days when the University is officially closed do not count toward the calculation of time deadlines. When a deadline falls on a day when the University is closed, it will be extended to the next business day. To calculate deadlines, exclude the day of the triggering event, e.g., the day notice was received.

Deadlines in this rule may only be extended by the President or their designee for good cause shown (e.g., medical emergency, bereavement). Extensions must be documented in writing and shared with all parties.

University proceedings under this rule may proceed independently of any criminal investigation. In some cases, the University may delay its process briefly to accommodate law enforcement evidence collection, but it is not required to do so.

For student Respondents and Complainants only, a blackout period begins one week before final exams and ends one day after the Respondent's and Complainant's last exam. During this period, timelines under this rule are paused. University officials will refrain from initiating investigations, conducting interviews, or holding hearings during this period to enable students to focus on their final examinations, except in cases deemed time-sensitive by the SMRC or the President.

XIV. Confidentiality

All proceedings under this rule are confidential to the extent permitted by law. While UATX endeavors to protect the confidentiality of all individuals involved in sexual misconduct matters, complete confidentiality cannot be guaranteed. Information may be disclosed only as necessary to carry out the purposes of this policy, including implementing supportive measures, conducting investigations, or complying with applicable law. Confidential Employees, as defined herein, shall not disclose identifying information to university officials or law enforcement without the student's express consent, except as required by law.

XV. Constructive Notice

All members of the UATX community have a responsibility to know the rules that govern their conduct. As a result, they are deemed to have constructive knowledge of this rule and any others that are publicly available to them.

XVI. Notice

University Officials charged with enforcing this rule shall send all required notifications using the email address on file with UATX. An email sent to an address listed in UATX's records will constitute full and adequate notice. Failure to provide and/or maintain current email addresses or failure to open an e-mail message does not excuse an individual from adhering to the requirements and deadlines set out in this rule.

XVII. Mandatory Review and Reapproval

This rule shall be reviewed at least once every two years. The review shall evaluate the rule's effectiveness, compliance with applicable law, and its alignment with the mission and values of the University. Pursuant to Texas Education Code § 51.282(f), this rule shall be formally approved by the Board of Trustees following each biennial review.

Approved by the President: July 8, 2025

Approved by the Board of Trustees (if applicable): July 8, 2025

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Policy Owner: Sexual Misconduct Response Coordinator & General Counsel