



# Policy Prohibiting Sexual Harassment and Sexual Misconduct

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## *General Description*

### **Policy Summary:**

Trinity University does not discriminate on the basis of sex in the University's education program or activities, and is required by law, including Title IX and 34 CFR Part 106 and Title VII of the Civil Rights Act of 1964 not to discriminate in such a manner. This requirement to not discriminate extends to admission and employment. Inquiries about the application of Title IX and 34 CFR Part 106 and Title VII of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1964 to Trinity University can be referred to the Title IX Coordinator or to the Assistant Secretary of the US Department of Education.

Trinity University's Policy Prohibiting Sexual Harassment and Sexual Misconduct provides information about options and obligations for reporting Sexual Harassment and Sexual Misconduct, as well as information about rights, resources, response, investigation, and resolution of reports and complaints. Other forms of discrimination on the basis of sex are handled under the University's Policy Prohibiting Harassment and Discrimination Based on Protected Status.

### **Purpose:**

To outline the rights and responsibilities of members of the University community as it relates to matters of Sexual Harassment and Sexual Misconduct and to describe the process for receiving, responding to, and resolving reports of Sexual Harassment and Sexual Misconduct.

### **Scope:**

This policy applies to faculty, staff, and students, as well as third-parties within the University's control (such as contractors, volunteers, visitors, etc.), regardless of where the incident(s) took place.

### **Exceptions:**

The University reserves the right to make exceptions to the process outlined in this policy when the Title IX Coordinator or designee determines it is in the best interest of the

University, necessary for the safety or welfare of the University community, or to comply with the University's legal obligations. In addition, in order to eliminate bias in the application of this policy, in handling complaints against the President or a Vice President of the University, the University in consultation with the Board of Trustees may deviate from the process outlined here.

All deadlines and time frames set forth in this policy may be extended for good cause with written notice to the parties.

This policy addresses Sexual Harassment and Sexual Misconduct, which are forms of sex discrimination. Other forms of discrimination or harassment based upon protected classes are handled under the University's Policy Prohibiting Harassment and Discrimination Based on Protected Status.

The University is not considered to have actual knowledge of Title IX Prohibited Sexual Harassment unless one of the following University officials has notice: the University President, a University Vice President, the Chief Human Resources Officer, the Dean of Students, or the Title IX Coordinator and that person is not the Respondent.

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## ***Policy Content***

### **Prohibition against Sexual Harassment and Sexual Misconduct**

Trinity University prohibits Sexual Harassment (including both Trinity Prohibited Sexual Harassment and Title IX Prohibited Sexual Harassment) and Trinity Prohibited Sexual Misconduct, which include acts of sexual assault, sexual exploitation, intimate partner violence, domestic violence, dating violence, and stalking, all as defined in this policy. Retaliation is also prohibited. The University will provide a prompt and equitable response to any report of Trinity Prohibited Sexual Harassment, Title IX Prohibited Sexual Harassment, Trinity Prohibited Sexual Misconduct, and retaliation as set forth in this policy.

Generalized references to Sexual Harassment and Sexual Misconduct in this policy refer collectively to:

1. Title IX Prohibited Sexual Harassment,
2. Trinity Prohibited Sexual Harassment, and
3. Trinity Prohibited Sexual Misconduct.

When aspects of this policy relate only to "Title IX Prohibited Sexual Harassment," "Trinity Prohibited Sexual Harassment," and/or "Trinity Prohibited Sexual Misconduct," the specific terminology of each type of prohibited conduct will be used.

## Reporting

Any person may report Sexual Harassment and Sexual Misconduct to the University's Title IX Coordinator and/or to law enforcement. A report to the Title IX Coordinator results in a review under the University's administrative process, while a report to law enforcement results in a criminal process. Either, both, or neither of these options may be pursued. To make a complaint of Sexual Harassment or Sexual Misconduct, an individual may contact one or more of the following:

- *Administrative Complaint to the University*

Angela Miranda-Clark  
Compliance Officer and Title IX Coordinator  
1 Trinity Place  
Northrup Hall, Room 210Q  
San Antonio, Texas 78212  
210-999-7835  
[eos@trinity.edu](mailto:eos@trinity.edu)  
[Online Reporting Form](#) (includes an option for anonymous reports)

To make a report against the Title IX Coordinator or raise any concern about bias or conflict of interest of the Title IX Coordinator, contact the Chief Human Resources Officer.

- *Criminal Complaint to Law Enforcement*

An individual who has been the victim of a crime has the right to choose whether to report the matter to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement. Reports of conduct that occurred on campus should be made to TUPD:

Trinity University Police Department (TUPD)  
210-999-7000 Emergency  
210-999-7070 Non-Emergency

Call 911 in an off-campus emergency

If the conduct occurred off campus, reports should be made to the law enforcement agency with jurisdiction over the location. TUPD and the Title IX Coordinator can assist you in identifying the appropriate jurisdiction and contact information for making a criminal report off campus.

- *Anonymous Reporting*

Allegations that the Policy Prohibiting Sexual Harassment and Sexual Misconduct has been violated may also be reported anonymously using the [University's online reporting form](#) or by contacting the Campus Conduct hotline at 866-943-5787 or through the [Campus Conduct online reporting form](#). The University's ability to respond to anonymous reports may be limited. Anonymous reports will be included in the University's required disclosures.

- *Confidential Reporting Options*

For students only, the following employees are designated to receive confidential reports from students, as long as the information is received by the employee in the course and scope of the employees' job duties:

- All staff in Health Services;
- All staff in Counseling Services;
- All staff in the University Chaplain's office; and
- All full-time Athletic Trainers

In addition, any information conveyed by faculty, staff, students, or other individuals in a circumstance where the communication is confidential or privileged by law (e.g., attorney-client privilege, HIPAA, etc.) will be confidential.

Individuals who are confidential resources and who receive information on a confidential basis are only required to share information with the Title IX Coordinator about the type of incident reported. Individuals designated as confidential or who receive information under circumstances confidential or privileged by law will not share information that violates an expectation of privacy without consent, unless otherwise required by law to do so.

Off-campus clergy, health and mental health professionals, victim advocates, and rape-crisis counselors can also provide confidential assistance. Off-campus resources can be found at this [link](#).

- *Responsible Employees and Mandatory Reporting Requirements*

Except for the employees designated as "confidential" above, all non-student employees and Residential Life student staff are designated as Responsible Employees and are required to report Sexual Harassment and Sexual Misconduct to the Title IX Coordinator in circumstances

where the employee:

1. Witnesses or receives information in the course and scope of employment, and
2. this information is about the occurrence of an incident that the employee reasonably believes is Sexual Harassment or Sexual Misconduct, and
3. when the incident was committed by or against someone who was a Trinity University student, employee, or contractor at the time of the incident.

This reporting responsibility applies regardless of where the incident occurred (on or off campus) and regardless of whether the individual(s) are still affiliated with Trinity. An employee is not required to report an incident in which they are the victim. In addition, employees are not required to report information shared during an organized, public awareness event sponsored by the University or a student organization, such as “Take Back the Night” or similar events.

Employees are not required to report information received when they are not acting in the course and scope of employment or if the incident took place at a time when none of the individuals involved were affiliated with Trinity, but are encouraged to do so. Reporting is important so that the Title IX Coordinator can provide information related to rights and resources that may be beneficial to the person who has reportedly experienced misconduct or take action to otherwise protect the University community.

Responsible employees must promptly submit reports of *all* information known to them to the Title IX Coordinator via phone, email, in person, or by web (preferred):

Angela Miranda-Clark  
Compliance Officer and Title IX Coordinator  
Northrup Hall 210Q  
210-999-7835  
[eos@trinity.edu](mailto:eos@trinity.edu)  
[Online Web Form](#) (Preferred)

• *External Reporting Options*

To make a report outside the University about the handling of cases:

Office of Civil Rights  
U.S. Department of Education  
1999 Bryan Street, Suite 1620  
Dallas, Texas 75201  
Phone: (214) 661-9600  
Fax: (214) 661-9587

Email: [OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov)

Employees may also contact the following to complain of sex discrimination, sexual harassment, or the handling of cases:

U.S. Equal Employment Opportunity Commission  
San Antonio District Office  
5410 Fredericksburg Rd.  
San Antonio, Texas 78229  
Phone: (800) 669-4000  
Fax: (210) 281-7690

Texas Workforce Commission  
Civil Rights Division  
101 E. 15th Street  
Guadalupe CRD  
Austin, Texas 78778-0001  
Phone: (512) 452-4778  
Fax: (512) 463-2643 or (512) 463-2755  
[EEOIntake@twc.state.tx.us](mailto:EEOIntake@twc.state.tx.us)

## **Response to Reports of Sexual Harassment and Sexual Misconduct**

The University will respond to all reports of Sexual Harassment and Sexual Misconduct, regardless of whether the acts took place on or off campus, and will take these reports seriously. All members of the University community have the right to have Sexual Harassment and Sexual Misconduct promptly, fairly, and equitably investigated and resolved through established procedures that include an objective evaluation of all relevant evidence (including both inculpatory and exculpatory evidence), and do not utilize credibility determinations based on a person's status as a Complainant, Respondent, or witness.

Such processes will be conducted by impartial individuals who have received training on handling Sexual Harassment and Sexual Misconduct matters in a way that protects the safety of the participants and promotes accountability, and who do not have a conflict of interest or bias for or against Complainants or Respondents generally or individually. For the purposes of this policy, bias means actual bias, not the mere appearance or possibility of bias. Any party who believes one or more of these institution officials has a material conflict of interest or bias must raise the concern promptly so that the institution may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for the purposes of appeal or otherwise.

The policy will be implemented fairly regardless of the parties' identification with any protected class or their role in the process. The Title IX Coordinator or designee may investigate a matter in accordance with this policy, regardless of whether there is a participating complaining party. Support and resources will be offered to all individuals involved.

Once the Title IX Coordinator receives information about an allegation of Sexual Harassment or Sexual Misconduct, the Title IX Coordinator or their designee will seek more information about the incident, the people involved, potential witnesses and evidence, the date, time, and location, etc. The Title IX Coordinator or their designee will promptly contact the person who has reportedly experienced Sexual Harassment or Sexual Misconduct to provide written information about the individual's rights under applicable University policy and supportive measures, accommodations, and resources that are available. The individual will be asked how they would like the University to respond, and can request from a range of administrative responses including no administrative response, only accessing resources, informal resolution, or filing a formal complaint.

If the individual who has experienced Sexual Harassment or Sexual Misconduct requests that the University not respond or investigate, the University will make a decision regarding whether or not to conduct an investigation after considering the seriousness of the reported incident; whether the University has received other reports of misconduct by the same alleged individual(s); whether the reported incident poses a risk of harm to others; whether the Complainant is a minor; and all other relevant factors, as determined by the University. The University will inform the individual of the decision whether or not to investigate. When the University determines it is necessary to investigate a report despite the potential Complainant's request, the University will do so in accordance with the confidentiality requirements of applicable law. When the University determines it will not undertake an investigation, the University will still take reasonable steps, consistent with the law and University policy, to protect the health and safety of the community.

A Respondent may be alleged to have engaged in conduct that constitutes Title IX Prohibited Sexual Harassment, Trinity Prohibited Sexual Harassment, and/or Trinity Prohibited Sexual Misconduct. The Respondent is presumed not responsible for the conduct alleged to violate this policy until a determination regarding responsibility is made at the conclusion of the process.

Decisions about whether a Respondent has violated this policy will be by a preponderance of the evidence standard. Information protected under a legally recognized privilege (e.g., medical and mental health records, attorney-client privilege, etc.) will not be used in a process under this policy unless the person holding the privilege has waived the privilege. If the alleged conduct or conduct discovered during the investigation of the allegation does not constitute Title IX Prohibited Sexual Harassment, Trinity Prohibited Sexual Harassment, or Trinity Prohibited Sexual Misconduct, the University may still address the conduct under other applicable policies, rules, or expectations for the Respondents' conduct.

The University's process is separate from any related criminal matter. Although the Title IX Coordinator may determine it is appropriate to temporarily delay University action so any related criminal investigation is not compromised, the University will not delay its action until a criminal

matter is complete. In addition, the University uses a different standard of proof and different evidentiary standards, so the outcome of the University's process is independent of any criminal matter.

## Supportive Measures

Supportive measures are available to assist faculty, staff, and students relating to a reported matter, regardless of whether they are the Complainant or Respondent, and whether or not a formal complaint is filed. Supportive Measures are non-disciplinary and non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge. Supportive measures are administrative actions and not sanctions. Such measures include, but are not limited to:

- administrative no contact orders;
- arrangements to provide on campus support or enforcement of judicial restraining orders issued by the court;
- on-campus housing accommodations, such as modification of living arrangements;
- academic accommodations, such as reassignment of classes, as available, or removal from classes (Note: an individual who chooses to drop a course in which the other party is enrolled will be permitted to do so without academic penalty.);
- changes to on-campus working situations (e.g., alternate work location, change in duties, alternate work hours, provision of information related to a leave of absence, etc.);
- accommodations in transportation, such as parking;
- referral for on-campus or off-campus counseling, health, and mental health support (Note: to the greatest extent practicable, the University will ensure that each party is offered counseling by an individual who does not provide counseling to any other person involved in the incident);
- information and accommodations relating to student financial aid through Student Financial Services;
- referral for off-campus support;
- referral for visa and/or immigration assistance;
- referral for possibilities of off-campus legal assistance;
- assistance with reporting the matter to law enforcement;
- referrals to TUPD for individuals who wish to seek assistance in applying for a court-ordered protective order (Note: TUPD can provide assistance, but has no authority to compel the courts to issue such orders); and
- other reasonable accommodations and resources requested by an individual.

Supportive measures are designed to preserve or restore equal access to the University's education program or activity without unreasonably burdening the other party. To the extent practicable, the University will provide equal access for participants under this policy who have a



disability. Individuals who have a disability may request that the University consult with appropriate individuals about any needed accommodations. Accommodations and protective measures will be kept confidential to the extent the University is able to do so while providing the accommodation. The Title IX Coordinator or designee will also provide information about on-campus and off-campus [support and resources](#) to the individuals involved.

## Preserving Evidence

Individuals who have experienced Sexual Misconduct are encouraged to preserve evidence to the greatest extent possible in order to aid with proving an alleged criminal offense, to provide evidence in an administrative action, or to aid in securing a protective order. Evidence of an act of Sexual Misconduct and the attacker's identity may be left on the victim's body. In addition, anyone who may have ingested an unknown substance (such as a date rape drug) should also be screened. Some experts recommend that someone who has experienced Sexual Misconduct not wash in any way until after a special forensic examination is performed. However, even if a person has already washed themselves or believes that too much time has passed for the collection of physical evidence, the forensic exam may still identify and preserve extremely important evidence such as the information provided verbally.

Therefore, individuals who have experienced an act of sexual assault are encouraged to go to **Methodist Specialty and Transplant Hospital Emergency Room** at 8026 Floyd Curl Drive, San Antonio, Texas (210-575-8168), for an exam as quickly as possible because the evidence deteriorates quickly and may be important in supporting the Sexual Misconduct allegation in a criminal or administrative proceeding. Methodist Specialty and Transplant Hospital Emergency Room is the only local hospital with staff trained and equipped to perform specialized examinations following a sexual assault, and services are available 24 hours a day, seven days a week. If you are on campus, TUPD is available to provide transportation assistance. The hospital staff at Methodist Specialty and Transplant Hospital is trained to collect forensic evidence, check for injuries and deal with the possibility of exposure to sexually transmitted diseases. A Sexual Assault Nurse Examiner (SANE) is a hospital staff member who handles sexual assault and is specifically trained to: provide comprehensive care to sexual assault survivors, demonstrate competence in conducting a forensic examination, testify as an expert witness, and show compassion and sensitivity to survivors of sexual assault.

In addition, anyone who experienced Sexual Harassment or Sexual Misconduct should preserve all other potential evidence, such as text or social media messages, emails, phone messages, photos or videos, etc. One way to do this is to save this information to the cloud or email it to themselves or a trusted friend. Information can be secured with the use of a password or encryption.

## Advisors/Support People

All parties in the investigation will be given the opportunity to consult with a trained Trinity University Process Advisor. The Process Advisor is available to answer procedural questions, assist in the coordination of action under this policy, and assist a party in understanding Trinity's process. The Process Advisor is not an advocate for a party, unless otherwise designated as such. Information shared with a Process Advisor is not confidential.

All parties involved in the informal or formal resolution process are entitled to have up to three (3) advisors or support people of their choice, in addition to the trained Trinity University Process Advisor. These individuals will be allowed to be present during any meeting under this policy, including investigatory interviews and hearings. These individuals may be a family member, friend, advocate, and/or up to one attorney. Except as specified during cross examination at a hearing involving Title IX Prohibited Sexual Harassment, Advisors/Support people may not speak on behalf of the participant or make a presentation, but they may ask to briefly suspend any meeting, interview or proceeding to consult with their advisee. In order to preserve the integrity of the process, if a support person is also a witness in the case, the procedural aspects of this policy may be amended to accommodate the witness's testimony and role as an advisor/ support person. Accommodations, including the scheduling of meetings, interviews or hearings, will not be made for advisors/support people if they unduly delay the process. The advisee will be required to sign a release to allow these advisors/support people to receive information about the case.

## **Administrative Leave and Emergency Removal from Campus**

The University reserves the right, in its sole discretion, to take whatever measures it deems necessary in response to an allegation of Sexual Harassment or Sexual Misconduct in order to protect individuals' rights, personal safety, and the welfare or safety of the University community, including but not limited to temporarily removing someone from on-campus housing, banning someone from all or part of campus, conducting an emergency removal of a student, or placing someone on administrative leave pending the outcome of an investigation. Any such action will be made after an individualized safety and risk analysis, and will be in accordance with applicable University policy.

An Emergency Removal for Title IX Prohibited Sexual Harassment is appropriate when there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment or Sexual Misconduct. If the University determines that Emergency Removal is justified, the Respondent(s) will be notified and will have the opportunity to challenge the decision immediately following the removal. To challenge the decision for emergency removal, student Respondents must request an appeal in writing to the Dean of Students. Emergency Removal for other violations will be in accordance with established University processes.

## Confidentiality

The identity of the individuals involved in a process governed by this policy will be treated as sensitive information and in accordance with applicable law, unless waived in writing. Identifying information will be shared by the University as necessary to coordinate the response to an incident, implement interim or supportive measures, take action under this policy, and investigate and adjudicate a report. In addition, identifying information may also be shared by the University with law enforcement as necessary to conduct a criminal investigation of the report, a healthcare provider in an emergency, and the individuals involved in a process under this policy to the extent necessary and as required by law.

The University is required by law to publicly disclose certain crime statistics and information pertaining to reports, investigations, and outcomes under this policy. The University will not disclose the identity of any individual in publicizing these statistics.

## Informal Resolution

Any party to an alleged violation of this policy may request that the report be resolved informally at any time. For conduct alleged to constitute Title IX Prohibited Sexual Harassment, Informal Resolution is only available after a formal complaint has been filed and is not available to resolve allegations that an employee engaged in Title IX Prohibited Sexual Harassment against a student. The University may also initiate the informal resolution process. Informal resolution may not be appropriate in all cases, and the Title IX Coordinator or designee is responsible for determining whether informal resolution may be explored. Once the informal resolution process is initiated, it must be completed within thirty (30) days or the process will be terminated and the matter will be referred for consideration under the formal resolution process. The informal resolution process may also be terminated at any time by any of the parties involved or by the Title IX Coordinator, at which point the matter may proceed to a formal resolution.

The informal resolution process requires the written agreement of all parties and the approval of the Title IX Coordinator to reach a conclusion. Outcomes of an informal resolution may include agreement that the person alleged to have violated the policy will participate in training, separation of the parties, referral to counseling programs, or other restrictions or conditions agreed upon by the parties. Informal resolutions do not constitute an admission of responsibility or a University determination of a policy violation. No party has the right to appeal after they have entered into an informal resolution.

## Formal Resolution

A report may be processed through a formal resolution either at the request of an individual who is reported to have experienced Sexual Harassment or Sexual Misconduct (Complainant) or, after a preliminary factual investigation, upon initiation by the Title IX Coordinator or designee. Formal resolution involves a factual investigation of the alleged violations of this policy and preparation of an investigative report. All findings during an investigation, adjudication, or appeal will be determined by a preponderance of the evidence (more likely than not) standard.

### *Formal Complaint*

To initiate the formal resolution process, a formal complaint must be filed by a Complainant or the Title IX Coordinator. To make a formal complaint, a Complainant will submit a document to the Title IX Coordinator alleging a violation of this policy and requesting that the University investigate this allegation. This document must be signed by the Complainant, though this signature can be electronic.

If the Title IX Coordinator signs a formal complaint, the Title IX Coordinator does not become a Complainant and is not a party. In cases where the University initiates formal investigation, the complaint will be based upon the information gathered during the preliminary factual investigation. In such a case, the individual reported to have experienced Sexual Harassment or Sexual Misconduct will have the same rights as if they were a Complainant.

There is no time limit to initiate a formal complaint, but the University's ability to investigate allegations and impose sanctions against someone found responsible for violating the policy may decrease with the passage of time. A Formal Complaint alleging a policy violation will use the definitions in place at the time of the incident(s), but use the current procedure.

### *Notice of Allegations*

Within a reasonable period of time from when the Title IX Coordinator receives a formal complaint and determines there is a basis for an investigation, the Party(ies) will be notified of the allegation(s) and their rights in the process. The notice will also provide sufficient details for a Respondent to prepare a response before an initial interview, including, if known, the identity of the parties, a general description of the conduct alleged to constitute the violation along with which provision(s) of this policy are at issue, and the date and location of the incident. If, in the course of the investigation, the University decides to investigate additional allegations, an updated notice of allegations will be sent to the parties whose identities are known.

At the start of an investigation, it may not be clear if the alleged Sexual Harassment or Sexual Misconduct constitutes a violation of Title IX Prohibited Sexual Harassment, University Prohibited Sexual Harassment, or University Prohibited Sexual Misconduct. As such, Respondent(s) may be given notice that they are alleged to have engaged in conduct that violated both Title IX and University definitions of prohibited conduct until more information is gathered.

The University may consolidate formal complaints by the same Complainant(s), against the same Respondent(s), or between the parties where the allegations of sexual harassment or sexual

misconduct arise out of the same set of facts or circumstances.

### *Investigation*

One or more trained Investigators will be assigned to investigate the allegation. Concerns of bias or a potential conflict of interest by a Title IX team member should be raised with the Title IX Coordinator. The University will strive to complete an investigation under this policy within ninety (90) business days of receiving a formal complaint; however, the length of investigations may vary and the timeline may be extended for good cause, as determined by the Title IX Coordinator. If the investigation or grievance process will be delayed, the Complainant(s) and Respondent(s) will receive written notice of and the reason for the delay or extension.

Generally, the Investigator(s) will interview the Complainant(s), the Respondent(s), and relevant witnesses, and will gather and review other information related to the allegation(s) as part of the investigation process. The burden of proof and the burden of gathering evidence sufficient to reach a determination of responsibility rests on the University and not the parties. It is in each party's best interest to ensure the investigators are aware of all evidence that the party considers relevant to the matters under investigation. The Complainant(s) and Respondent(s) will have the opportunity to be interviewed, provide written statements, identify and present fact and expert witnesses, and provide documentary and other exculpatory and inculpatory evidence for consideration. The Investigator(s) have sole discretion to determine how and when information will be shared with the parties and witnesses during the investigation process.

Neither party is prohibited from discussing the allegations under investigation, though the University suggests restraint in order to preserve the efficacy of the investigation. Neither party is prohibited from gathering or presenting evidence.

At the conclusion of the investigation, the investigator(s) will draft an investigative report. The parties will have ten (10) business days to review (in electronic format or hard copy) the draft investigative report and all evidence gathered during the investigation that is directly related to the allegations raised in a formal complaint, including evidence upon which the University does not intend to rely on in reaching determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a party or other source (e.g., statements by parties and witnesses, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with legal requirements pertaining to confidentiality). The parties may submit a written response to the draft investigative report within the review period.

The investigator(s) will review and consider the written response(s) provided by the parties and may undertake additional actions or make changes to the draft summary investigative report, in their sole discretion, prior to the completion of the investigative report.

The investigative report will be forwarded to the following administrator(s) for handling under the applicable disciplinary process:

1. Dean of Students' Office and Chief Human Resources Officer when Respondent is a student;
2. Vice President for Academic Affairs, Department Chair, and Chief Human Resources Officer when Respondent is a faculty member;
3. Chief Human Resources Officer, supervisor, and applicable Vice President when Respondent is a staff member or third-party within the University's control.

The parties and their advisor(s) will also receive a copy of the investigative report in an electronic or hard copy for their review and written response in preparation for the adjudication of the formal complaint, which will take place no sooner than ten (10) business days after issuance of the investigative report.

The Complainant(s) and Respondent(s) are expected to provide all relevant information during the investigation. If a party wishes to present new information after the investigative report has been forwarded for a final determination, a determination will be made as to whether the information was available at the time of the investigation and whether the information was likely to have significantly impacted the Investigator(s)' Investigator's/Investigators' determination of responsibility. If the new information was not available during the investigation and would have significantly impacted the determination of responsibility or sanction recommendation, the investigation may be reopened before proceeding with the adjudication.

#### *Dismissal of a Formal Complaint*

In some instances, an investigation may be terminated or a case may not be referred for adjudication, including but not limited to the following:

- A Complainant states in writing that they would like to withdraw all or part of their complaint,
- Specific circumstances prevent the University from gathering evidence sufficient to make a determination regarding the allegations in the complaint,
- The allegations, even if proven, do not constitute a violation of this policy,
- The parties agree to informal resolution, or
- Both parties agree in writing to waive their rights to a hearing and accept the Investigator's/Investigators' recommendations as to the finding and sanction as the final result of the case.

In all cases, the University reserves the right to continue the process in the best interest of the health and safety of the greater University community or as required by law.

#### *Dismissal of a Formal Complaint Alleging Title IX Prohibited Sexual Harassment*

In handling a matter, the Title IX Coordinator or designee will review the formal complaint and conduct an initial assessment to determine whether the alleged conduct would violate the definition of Title IX Prohibited Sexual Harassment under this policy. The portion of the formal complaint involving Title IX Prohibited Sexual Harassment must be dismissed if the allegations in the formal complaint would not constitute a violation of the definition of Title IX Prohibited Sexual

Harassment even if proved (both in terms of alleged conduct and the jurisdictional components of the definition). If a formal complaint alleging Title IX Prohibited Sexual Harassment is dismissed for this reason, the University is not precluded from addressing conduct that would be a violation of Trinity Prohibited Sexual Harassment, Trinity Prohibited Sexual Misconduct, or any other University policy, and a complaint under this policy may still move forward based upon such alleged violations even if dismissed for Title IX purposes. The decision to dismiss a Formal Complaint alleging Title IX Prohibited Sexual Harassment may be appealed within as set forth in the Appeals Section below. If a dismissal is not appealed in a timely manner, the dismissal decision is final.

### *Withdrawal or Graduation Pending Disciplinary Charges*

If a student withdraws or graduates pending a disciplinary charge alleging the student violated this policy, the University will not end the disciplinary process or issue a transcript to the student until a final determination of responsibility is made, unless otherwise prohibited by law. In such a case, the University will expedite the disciplinary process as necessary to accommodate both parties' interest in a speedy resolution.

### *Consideration of Past History*

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior must comply with applicable rape shield laws and are not relevant except when:

1. The evidence is to prove that someone other than the Respondent committed the conduct alleged by the Complainant/in question, or
2. If the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Demonstration of a pattern, repeated, and/or predatory behavior by the Complainant or the Respondent, including previous findings in any legal or campus proceeding, may be relevant to the finding, not just the sanction.

## **Adjudication of Formal Complaint**

The process for adjudicating a formal complaint depends on the nature of the allegations (whether the conduct includes Title IX Prohibited Sexual Harassment, University Prohibited Sexual Harassment, and/or University Prohibited Sexual Misconduct) and the status of the Respondent (faculty, staff, student, or third-party).

The Dean of Students' Office will adjudicate a formal complaint when the Respondent is a student; the Office of the Vice President for Academic Affairs will adjudicate a formal complaint when the Respondent is a faculty member; and the Chief Human Resources Officer, in collaboration with the applicable Vice President or President, will adjudicate a formal complaint when the Respondent is a staff member or third-party within the University's control.

In adjudicating a formal complaint, the decision maker(s) will determine the relevance and weight of the evidence presented.

### *Hearing Process for Title IX Prohibited Sexual Harassment for all Respondents*

The following hearing process (“Title IX Hearing Process”) will be used for formal complaints involving allegations of Title IX Prohibited Sexual Harassment, regardless of if the formal complaint also includes other allegations and regardless of the Respondent’s status at the University.

The Title IX Hearing Process will involve a live hearing, which may take place in person or via technology that allows the participants to hear and see one another virtually. The Title IX Hearing Process will be overseen by a Hearing Panel (composed of one or more individuals), which acts as the decision maker and will be responsible for making a determination regarding the outcome of the case and sanctions, if applicable. The University or a Hearing Panel may establish rules of conduct and decorum, applicable to all parties, including rules that restrict a party’s advisors’ ability to participate in the proceedings for any purpose other than cross examination relating to Title IX Prohibited Sexual Harassment. The Hearing Panel will be comprised of the following:

- For Student Respondents: Dean of Students or designee and up to two additional individuals appointed by that person.
- For Faculty Respondents: Vice President for Academic Affairs or designee and up to two individuals appointed by that person.
- For Staff and Third-Party Respondents: Chief Human Resources Officer or designee and/or President or Vice President of the applicable division or designee, and up to one additional individual appointed by that person.

One or more advisors to the Hearing Panel may also be present in the hearing.

During the live hearing, the Hearing Panel may ask questions and consider all relevant evidence, including information from the investigator(s), the parties, any fact or expert witnesses, the investigative report, and documentary or other evidence. A party’s advisor may cross examine the other party and any witnesses by asking all relevant questions and follow-up questions, including questions challenging credibility, relating to allegations of Title IX Prohibited Sexual Harassment. This cross examination must be conducted directly, orally, and in real time by a party’s advisor of choice, and never by a party personally. Only relevant questions will be allowed. Before a party or witness answers a question, a determination must be made by the Hearing Panel that the question is relevant. If the Hearing Panel decides that a question is not relevant, an explanation must be provided as to the decision to exclude a question as not relevant. This decision may be amended or supplemented after the hearing.

If a party has not chosen an advisor or their advisor of choice is not present at the hearing, the University will provide an advisor of the University’s choice to conduct cross-examination on behalf of that party without charge to the party. This advisor may be an attorney, but is not



required to be.

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Panel can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. If a Party or witness does not attend or does not submit to cross-examination at the hearing, the Decision Makers may nevertheless rely on any relevant statement of that Party or witness in reaching a Determination Regarding Responsibility<sup>[1]</sup>. The Hearing Panel may not draw an inference on responsibility solely on the party or witness's absence from the hearing or refusal to answer questions.

*[1] "This provision is effective as to any Determination Regarding Responsibility rendered by Decision Makers on or after August 24, 2021. It replaces a provision in prior versions of these procedures that prohibited reliance on such statements. That provision was based on a regulatory requirement of the U.S. Department of Education that has since been vacated by a federal court and that is no longer enforced by the Office for Civil Rights. See Suzanne B. Goldberg, Acting Assistant Secretary for Civil Rights, U.S. Department of Education, "Letter to Students, Educators, and other Stakeholders re Victim Rights Law Center et al. v. Cardona," p.1 (August 24, 2021)."*

The University will create an audio recording, audiovisual recording, or transcript of any live hearing and will make it available to the parties for inspection and review. Following the hearing, the Hearing Panel will issue a written determination regarding responsibility and any sanctions. Detailed information about the possible sanctions is outlined in the Consequences section of this policy. This determination will be issued to the parties simultaneously and will include information regarding how both parties can file an appeal under this Policy.

#### *Disciplinary Process and Sanctions for Cases of University Prohibited Sexual Harassment and/or University Prohibited Sexual Misconduct Against a Student Respondent*

Upon receipt of the final investigative report, the Dean of Students or designee will convene a Hearing Panel and appoint a facilitator, who may or may not be a member of the panel, to oversee the hearing. The role of the Hearing Panel is to review the work of the Investigator(s) (not to reinvestigate the allegations) and recommend a finding and sanction to the Dean of Students. The Complainant(s), Respondent(s), and witnesses, if any, will have an opportunity to attend the hearing but are not required to do so.

During the hearing, the Complainant(s) and the Respondent(s) may make opening statements, primarily to address issues raised in the investigative report and explain why they agree or disagree with the investigative report. The Hearing Panel may question the Investigator(s), the parties, and any witnesses present at the hearing. The parties may submit questions to the Hearing Panel before and during the hearing to be asked of the Investigator(s), other party, and witnesses, if the same are present at the hearing. The Hearing Panel will consult with the Hearing Facilitator to review the questions and determine whether to ask the questions submitted.

Advisers/Support People are not permitted to speak on behalf of a party or to question any witness, Investigator, or the panel during a hearing. The parties may make a closing statement to respond to any issues raised in the hearing. If the panel rejects the recommendations or adjusts the sanctions, they must do so within the framework of the policy and cite evidence to support the adjustments.

Upon conclusion of the hearing, the panel will confer in a closed session to reach their decision. The panel will recommend a finding and sanction to the Dean of Students. The Dean of Students or designee will determine whether or not to accept, reject, or modify the Hearing Panel's findings and recommendations and make the decision in the case. The parties will simultaneously be notified in writing of the outcome and any options for appeal.

Individuals found responsible for violating this policy will be sanctioned and may also be subject to educational or remedial measures. Detailed information about the possible sanctions is outlined in the Consequences section of this policy.

*Disciplinary Process and Sanctions for Cases of University Prohibited Sexual Harassment and/or University Prohibited Sexual Misconduct Against a Staff Member or Third-Party*

When the Chief Human Resources Officer (CHRO), supervisor, and applicable Vice President receive the investigative report, one or more of those individuals and/or designee(s) will provide the Complainant(s) and Respondent(s) an opportunity to meet to discuss the matter. They may also discuss the proposed findings and recommendations with the Investigator(s). The Vice President or designee will then make a determination regarding the violation and sanction. Detailed information about the possible sanctions is outlined in the Consequences section of this policy. The parties will simultaneously be notified in writing of the outcome and any options for appeal.

*Disciplinary Process, Sanctions, and Appeals for Cases of University Prohibited Sexual Harassment and/or University Prohibited Sexual Misconduct Against a Faculty Respondent*

When the Vice President for Academic Affairs (VPAA), Department Chair, and Chief Human Resources Officer receive the investigative report, the VPAA or designee will provide the Complainant(s) and Respondent(s) an opportunity to meet to discuss the matter. The VPAA or designee may also discuss the proposed findings and recommendations with the Investigator(s). The VPAA or designee will then make a determination regarding the violation and sanction and proceed with the imposition of sanctions in accordance with Chapter 3A. VIII. or Chapter 3A. VI. C., of the Faculty and Contract Staff Handbook, as applicable. The parties will simultaneously be notified in writing of the outcome and any options for appeal.

## Appeals

### *Grounds for Appeals*

All parties have the right to appeal the decision to dismiss a complaint of Title IX Prohibited Sexual Harassment, or the decision on responsibility and/or sanction by submitting their appeal within three (3) days to the administrator identified below, as applicable based upon the Respondent's status at the University. The non-appealing party(ies) will be notified of the appeal in writing. All parties will have the opportunity to submit a written statement in support of, or challenging the outcome.

Appeal requests are limited to the following grounds:

1. A procedural or substantive irregularity or error occurred that affected the outcome of the case;
2. The presence of new evidence, not reasonably available at the time of dismissal or at the time of the determination of responsibility, that could affect the outcome of the matter or sanction. A summary of this new evidence and its potential impact must be included;
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or actual bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
4. The sanctions imposed are substantially disproportionate to the severity of the violation.

### *Appeals for Cases Involving a Student Respondent*

An appeal of a decision involving a student Respondent should be submitted in writing to the Vice President for Student Life. This appeal will be reviewed and decided by the Vice President for Student Life or their designee within thirty (30) days unless extended by that individual, who may request any existing or new information they deem necessary to resolve the appeal.

### *Appeals for Cases Involving a Staff Member or Third-Party Respondent*

An appeal of a decision involving a staff member or third-party Respondent should be submitted in writing to the President. The President will designate a Vice President who was not involved in the decision to handle the appeal. The appeal will be decided within thirty (30) days, unless extended by the Vice President, who may request any existing or new information they deem necessary to resolve the appeal.

### *Appeals for Cases Involving a Faculty Respondent*

An appeal of a decision involving the faculty Respondent will proceed to the faculty Hearing Committee or Grievance Committee in accordance with Chapter 3A. VIII (Procedures for Sanctions other than Dismissal), of the Faculty and Contract Staff Handbook, as applicable based upon the determined sanction. In cases where the Complainant is the only appealing party, the appeal will be reviewed by the Hearing Committee under the same procedures. The committee may request any existing or new information they deem necessary to resolve the

appeal. The appeal will be decided within thirty (30) days, unless extended by the President.

If the decision involves proposed dismissal of a faculty Respondent, the parties will have an opportunity to participate in the dismissal procedures outlined in Chapter 3A, VI. C. of the Faculty and Contract Staff Handbook (Dismissal Procedures).

### *Decision on Appeal*

The parties will be simultaneously notified in writing of the outcome of the appeal and the rationale for the result. The decision on appeal is the final decision in the case and is not subject to further review within the University. This is the sole mechanism for appeal of a dismissal, decision, and disciplinary action taken under this policy, and such decisions are not subject to any other grievance policy.

## **Prohibition Against Retaliation**

Retaliation against a person who engages in protected activity under this policy is prohibited. Protected activity under this policy includes but is not limited to reporting an incident that may implicate this policy, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, or otherwise participating in the investigation, resolution or adjudication process, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Retaliation includes but is not limited to any behavior, adverse action, treatment, or condition that intimidates, threatens, coerces, discriminates against or is taken against a person for the purpose of interfering with their rights under this policy or otherwise participating under this policy. This includes direct or indirect behavior or actions taken by an individual or at the direction of a party or someone participating under this policy. Any behavior that has the purpose or effect of intimidating or improperly influencing any individual's participation in the investigation or adjudication process may also be retaliation. Any act of actual or threatened retaliation may be investigated and adjudicated as a separate violation of this policy. Retaliation may also result in immediate removal from the University. Any person who believes they have been subjected to retaliation should immediately report this to the Title IX Coordinator.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## **False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under University policy.

## **Amnesty**

A person acting in good faith who reports an allegation, assists in an investigation, or otherwise participates in a process under this policy will not be subjected to any disciplinary action by the University for any violation of University policy when the conduct reasonably relates to the incident, unless suspension, expulsion, or termination from the institution is a possible punishment. For example, a student involved as a party or witness will receive amnesty for minor policy violations (such as alcohol or drug infractions) that are secondary to the alleged incident, though the University may provide purely educational options with no disciplinary finding.

A person who is found to have violated this policy is not entitled to amnesty under this provision.

## **Risk Reduction Strategies/Strategies for Engaging in Clear, Healthy Relationships**

Risk and Protective factors can be found on the [Centers for Disease Control and Prevention](#) website, and include:

Everyone owes sexual respect to their potential partner(s). These suggestions may help:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- Do not make assumptions about consent; about someone's sexual availability; about whether they are attracted to you; about what they are comfortable with; or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you should assume you do not have consent.
- Everyone has the right to withdraw consent at any time.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading your potential partner. They may not have figured out what they are comfortable with engaging in with you yet. You must respect their decisions.

- Don't initiate sexual behavior with someone who may be incapacitated, even if they voluntarily consumed alcohol or drugs.
- Realize that your potential partner could be intimidated by you or fearful. You may have a power advantage simply because of your gender, size, position or status within the University, or other factors.
- Understand that consent to some form of sexual behavior does not imply consent to any other form of sexual behavior. You must have consent for all forms of sexual activity. Coercion, force, and incapacitation all negate consent.
- Silence and passivity are not consent. Make sure you have consent for all sexual behavior.
- Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language. If you are unsure or in doubt, assume you do not have consent and stop. Communicate and make sure of your partner's wishes.
- If you have limits, make them known as early and as clearly and explicitly as possible.
- Tell a sexual aggressor that their actions are not welcome directly, clearly, and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor by leaving the area (go talk to someone else, go to the bathroom, etc.).
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake and drug use and acknowledge that alcohol and drugs lower inhibitions, including sexual inhibitions. Recognize that your alcohol intake and drug use may make you vulnerable to someone who views an impaired person as a sexual opportunity, may make it more likely that you will miss or skip information about consent, or make bad choices
- Take care of your friends and ask that they take care of you. Use a buddy system and do not go someplace alone or without letting someone know where you are going. A good friend may challenge you if you are about to make a mistake. Respect them when they do.

## **Amendment to this Policy**

Technical and non-substantive amendments to this policy may be made administratively. Substantive amendments will be adopted by a vote of the Board of Trustees, following a vote by the Faculty Senate, Faculty Assembly, and TSEC.

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of that opinion or order publication. Should the hearing process for formal adjudication of Title IX Prohibited Sexual Harassment be revoked in this manner, any Title IX prohibited conduct will be investigated and adjudicated under the hearing process for University Prohibited Sexual Harassment and/or University Prohibited Sexual Misconduct.

In the event changes in the law necessitate changes to this policy and it is impracticable to obtain

votes from one or more of the Faculty Senate, Faculty Assembly, and TSEC before such changes are required to be implemented, the Board of Trustees may approve changes to this policy without prior vote by those bodies. In such a case, Faculty Senate, Faculty Assembly, and TSEC will be notified of the action by the Board of Trustees and may request the policy be reopened for revision and vote.

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## **Performance Evaluation**

### **Consequences of Policy Violation:**

#### *For Engaging in Sexual Harassment or Sexual Misconduct*

Individuals found responsible for violating this policy will be sanctioned. The University reserves the right to impose a range of sanctions depending on the severity of the offense and taking into account any previous disciplinary history. The University may also impose restrictions (such as no contact orders or bans from particular locations on campus) or educational remedies (such as training) at its discretion. Except for matters solely involving Title IX Prohibited Sexual Harassment, restrictions and educational remedies may be used whether or not a party is found responsible for violating the policy. For violations of Title IX Prohibited Sexual Harassment, remedies are designed to restore or preserve equal access to Trinity's education program or activity. The Title IX Coordinator is responsible for effective implementation of any remedies. Variation from the guidelines below is possible but will be explained in writing.

#### Range of Sanctions for students:

- Any student found responsible for violating the policy regarding either Title IX Prohibited conduct or University Prohibited conduct definitions of Sexual Harassment, Sexual Exploitation, Stalking, or Retaliation will likely receive one of the following sanctions: warning, general warning, probation, probation with suspension of privileges, suspension, or expulsion.
- Any student found responsible for violating the policy regarding either Title IX Prohibited conduct or University Prohibited conduct definitions of Forcible Fondling, Dating Violence, Domestic Violence, or the University Prohibited conduct definition of Intimate Partner Violence will likely receive one of the following sanctions: probation, probation with suspension of privileges, suspension, or expulsion.
- Any student found responsible for violating the policy regarding either Title IX Prohibited conduct or University Prohibited conduct definitions of Forcible Rape, Forcible Sodomy, Sexual Assault With An Object, Incest or Statutory Rape will likely receive a sanction of suspension or expulsion.

Note: Students who are suspended or expelled will have a notation placed on their transcript in accordance with University policy.

Range of Sanctions for Employees:

Any University employee, faculty member or staff member, found responsible for violating the policy may receive counseling or the sanctions of warning, suspension without pay, or termination.

Range of Sanctions for a Third-Party:

Any volunteer, contractor, or other individual within the University's control who is found responsible for violating the policy may be counseled, warned, removed from their position, and/or banned from participation in certain University activities.

*Failure to Comply with Reporting Requirements*

Texas law requires that employees who fail to comply with their reporting responsibilities are also subject to the following consequences:

1. An employee who the University determines, in accordance with the University's disciplinary procedure, to have knowingly failed to make a required report or to have knowingly made a false report with the intent to harm or deceive shall be terminated from employment.
2. An employee who knowingly failed to make a required report or who knowingly made a false report with the intent to harm or deceive commits the criminal offense of a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the employee intended to conceal the incident that the employee was required to report.

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## **Terms & Definitions**

**Terms and Definitions:**

<b>Term:</b>	<b>Definition:</b>
Trinity Prohibited Sexual Harassment	Sexual Harassment means unwelcome, sex-based verbal or physical conduct that: (1) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or (2) 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 at a postsecondary educational institution.
Trinity Prohibited Sexual Misconduct	Trinity prohibited Sexual Misconduct includes: <ol style="list-style-type: none"><li>1. Sexual Assault as defined below;</li><li>2. Intimate Partner Violence (including Domestic Violence and Dating</li></ol>



Term:	Definition:
	<p>Violence as defined below);</p> <ol style="list-style-type: none"> <li>3. Stalking, as defined below; and</li> <li>4. Sexual Exploitation, as defined below.</li> </ol>
<p>Title IX Prohibited Sexual Harassment</p>	<p>Title IX Prohibited Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following, but only when such conduct occurs on or after August 14, 2020, within the United States, occurs within Trinity’s education program or activity (as defined below), and the Complainant was participating or attempting to participate in Trinity’s education program or activity at the time of the conduct:</p> <ol style="list-style-type: none"> <li>1. A Trinity employee conditions the provision of an aid, benefit, or service of Trinity on an individual’s participation in unwelcome sexual conduct;</li> <li>2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Trinity’s education program or activity;</li> <li>3. Sexual Assault as defined below;</li> <li>4. Dating Violence as defined below;</li> <li>5. Domestic Violence as defined below; or</li> <li>6. Stalking as defined below.</li> </ol>
<p>Sexual Assault</p>	<p>Sexual Assault means the following sex offenses:</p> <p>Rape: The carnal knowledge of a person, without consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical disability.</p> <p>Non-consensual Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.</p> <p>Sexual Assault With An Object: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.</p>

Term:	Definition:
	<p>Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.</p> <p>Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.</p> <p>Statutory Rape: Sexual intercourse within a person who is under the statutory age of consent (17 years old in the state of Texas).</p>
Sexual Exploitation	<p>Sexual exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to the advantage or benefit of anyone other than the one being exploited, and which behavior does not constitute any other form of Sexual Misconduct.</p> <p>Examples of sexual exploitation include, but are not limited to, engaging in the following activities without the other person’s consent:</p> <ul style="list-style-type: none"> <li>• Sexual voyeurism such as watching or recording a person undressing, using the bathroom, or engaging in sexual acts in a place where they would have a reasonable expectation of privacy;</li> <li>• Taking or sharing pictures or recording another in a sexual act, or in any other private activity (such as allowing another person to hide in a closet and observe sexual activity), or disseminating sexual pictures, including as an act of revenge, without the consent of all individuals depicted;</li> <li>• Exposing one’s genitals or breasts in non-consensual circumstances or inducing another to expose his or her genitals or breasts;</li> <li>• Going beyond the boundaries of consent (such as engaging in actions that were not consented to during an otherwise consensual encounter);</li> <li>• Threatening to disclose or disclosing a person’s sexual activities, sexual orientation, gender identity, or gender expression with the intent to harm the person;</li> <li>• Administering alcohol or drugs (such as date rape drugs) to another person without their knowledge and consent;</li> <li>• Prostitution; and</li> </ul>

Term:	Definition:
	<ul style="list-style-type: none"> <li>• Intentionally aiding a violation of this Policy.</li> </ul>
Intimate Partner Violence	<p>Intimate Partner Violence includes both Dating and Domestic Violence, defined below, as well as any act, threat, or pattern of abusive behavior (including sexual, physical, psychological, and economic) that one person uses against a current or former partner in a sexual, dating, spousal, domestic, parenting or other intimate relationship, to gain or maintain power or control over another. Intimate Partner Violence can be a single act or a pattern of behavior within a relationship.</p> <p>The determination of whether any conduct constitutes Intimate Partner Violence is whether the conduct is so severe, pervasive, or persistent as to interfere with an individual’s ability to learn and/or work or cause substantial emotional distress, when judged both objectively (meaning that a “reasonable person” would find the behavior to be intimidating, frightening, terrorizing, or threatening) and subjectively (meaning the impacted individual felt the behavior was intimidating, frightening, terrorizing, or threatening).</p> <p>The existence of such a relationship shall be determined based on consideration of the following factors: the length of the relationship; the type of the relationship, and the frequency of interaction between the persons involved in the relationship.</p>
Dating Violence	<p>Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.</p> <p>For the purposes of this definition -</p> <p>(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.</p> <p>(B) Dating violence does not include acts covered under the definition of domestic violence.</p>

Term:	Definition:
Domestic Violence	<p>Domestic Violence means felony or misdemeanor crimes of violence committed by</p> <ul style="list-style-type: none"> <li>• a current or former spouse or intimate partner of the victim;</li> <li>• by a person with whom the victim shares a child in common;</li> <li>• by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;</li> <li>• by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or</li> <li>• by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.</li> </ul>
Stalking	<p>Stalking means engaging in 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 suffer substantial emotional distress.</p> <p>For the purposes of this definition -</p> <ul style="list-style-type: none"> <li>• Course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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.</li> <li>• Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.</li> <li>• Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.</li> </ul>
Consent	<p>Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity or contact.</p> <ul style="list-style-type: none"> <li>• A person can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue, and, if that happens, the other person must stop</li> </ul>

Term:	Definition:
	<p>immediately. Continued pressure can be coercive, which negates consent given under such circumstances.</p> <ul style="list-style-type: none"> <li>• Consent cannot be inferred from silence or the absence of resistance.</li> <li>• Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).</li> <li>• A current or previous dating or sexual relationship is not sufficient to constitute consent.</li> <li>• There is no requirement that someone resist the sexual advance or request, but resistance is a clear demonstration of non-consent.</li> <li>• Consent cannot be obtained by coercion, force, or from someone who is incapacitated.</li> <li>• In order to give effective consent, one must be 17 years old in Texas.</li> <li>• Proactively talk to your partner about sexual decisions when you're not in the moment. If you are in a relationship, you should be talking about these things on an ongoing basis.</li> </ul> <p>The University will determine the existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.</p>
Coercion	<p>The use of coercion to obtain consent invalidates the consent. Coercion is the act of unreasonably pressuring another person into sexual activity against their will. Sexual coercion can involve using physical force and/or convincing another person to engage in sexual activity by use of verbal and emotional pressure including manipulation, intimidation, blackmail, and/or the use of alcohol or other drugs to make someone more vulnerable. What is unreasonable will be determined on a case-by-case basis, considering a number of factors such as the intensity, frequency, and duration of persuasion, and the isolation of individuals.</p>
Force	<p>The use of force to obtain consent invalidates the consent. Force is the direct or indirect use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.</p>
Incapacitation	<p>A person is incapacitated and cannot consent to sexual activity if that person</p>

<b>Term:</b>	<b>Definition:</b>
	<p>is asleep, unconscious, or otherwise unable to resist; is unaware that sexual activity is occurring; does not have the ability to make informed, rational judgments about whether or not to engage in sexual activity; and/or the person does not have the legal capacity to consent. Someone can be incapacitated due to the voluntary or involuntary use of alcohol or drugs. Some signs that someone may be incapacitated include stumbling, slurring words, a lack of control of their motor skills, or an inability to understand what is happening.</p> <ul style="list-style-type: none"> <li>• An individual who engages in sexual activity when the individual knows, or should know, that the other person is incapacitated, has violated this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.</li> <li>• Being drunk or intoxicated is not a defense for not obtaining consent.</li> <li>• Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.</li> <li>• A person who is not sure if they are interacting with a person who has diminished capacity should, as a matter of practice, avoid engaging in sexual activity with that person at that time. A person who has sexual interactions with anyone who may be under the influence of any substance is vulnerable to accusations of violations of this policy.</li> </ul>
Student	For the purpose of this policy, the University defines “student” as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University.
Trinity Education Program or Activity	Trinity education program or activity includes locations, events, or circumstances over which the recipient exercised substantial control over both the Respondent and the context in which the sexual harassment occurs. For purposes of Title IX Prohibited Sexual Harassment, education program or activity also means any building owned or controlled by a student organization that is officially recognized by the University; however, no such buildings exist at Trinity.

## Related Documents

### Related Documents:

Document Type:	Document Name:	Document Number:
Policy	Policy on Mandatory Reporting Requirements for Sexual Harassment and Sexual Misconduct	PRES-0002
Policy	Policy Prohibiting Harassment and Discrimination Based on Protected Status	PRES-0003

### Related Content:

[Chapter 51, Subchapters E-2 and E-3 of the Texas Education Code](#)

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## Revision Management

### Revision History Log:

Revision #:	Date:	Recorded By:
v3.0	4/20/2022 8:38 PM	Holly Warfel
v2.1	11/22/2021 2:47 PM	Angela Miranda-Clark
v2.0	8/14/2020 12:28 PM	Claire Smith
v1.0	6/30/2020 4:18 PM	Kelleebeth Cantu

### Vice President Approval:

Name:	Title:
Claire Smith	Executive Assistant to the President