Texas Tech University System
Regulation 07.06.A

Title IX Sexual Misconduct

Effective: August 14, 2020

M .2 regulation applies (see Section 3.c, Table 1.1 for Sexual Misconduct Involving Employees as Respondents) jurisdiction 4.q, below), where:

i. Respondent has an employment or enrollment relationship with the University, and

ii. The conduct allegedly occurred in an Education Program or Activity (as defined in Section 4.d, below) on or after August 14, 2020.

b. Any other form of sexual misconduct is governed by System Regulation 07.06.B

Attachment 1 to this regulation visually depicts the applicability of System Regulations 07.06.A and 07.06.B and summarizes their differing procedures. In the event of any conflict between the attachment and these regulations, the text of the regulations shall control.

2. Purpose

a. This Regulation provides information regarding the Texas Tech University System and its component institutions' (referred to herein collectively as "University") prevention and education efforts related to Title IX Sexual Misconduct, as defined in Section 4.q, below. This regulation provides students and employees with their rights and options and also explains how the University will proceed once it has Actual Knowledge, as defined in Section 4.a, below, of allegations of prohibited Title IX Sexual Misconduct in keeping with the University's values and in order to meet the legal obligations of Title VII, Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), the Texas Education Code, 34 CFR Part 106, and other applicable laws and regulations.

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b. The University will take reasonable steps to respond to complaints of Title IX Sexual Misconduct and to restore or preserve equal access to the University's Education Programs or Activities

determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity

r. *University Community.* All University faculty, staff, and students of and visitors to any University premises or University-affiliated activity.

5. Contact Information for University Title IX Coordinators and the System Office of Equal Opportunity

a. *University Title IX Coordinators (Students)*. Each University has a Title IX Coordinator who oversees the University's compliance with Title IX. Students seeking information regarding Title IX, to report sexual misconduct, or to file a Formal Complaint of Title IX Sexual Misconduct, should contact the appropriate University Title IX Coordinator:

TITLE IX COORDINATOR EMAIL & PHONE	OFFICE ADDRESS	TITLE IX WEBSITE & REPORTING LINK
Angelo State University*:* Jessica Gooch 325.486.6311 jessica.gooch@angelo.edu	Mayer Administration Building 2601 W. Avenue N., Suite 205 San Angelo, TX 76909	*Title IX Website:* https://www.angelo.edu/title-ix *Reporting Link:* https://www.angelo.edu/incident-form

Midwestern State University
Laura Hetrick
940.397.4213
laura.hetrick@msutexa Þ17metd-

SYSTEM TITLE IX COORDINATOR FOR EMPLOYEES EMAIL & PHONE	OFFICE ADDRESS	WEBSITE & REPORTING LINK

may also report incidents of sexual misconduct to btypel (a)-1.7 (y -1.w) m-

Regulation 07.06.B, committed by the alleged perpetrator or perpetrators;

iii. Whether the alleged incident poses a risk of harm to others;

iv. Whether the allegations involved violence, use of weapons, or other similar factors; and

v. Any other factors the University determines relevant.

If the University decides not to investigate an alleged incident described in this subsection based on the Complainant's request not to investigate, the University shall take any steps it determines necessary to protect the health and safety of the University Community in relation to the alleged incident.

l. *Deadline for Reporting.* Employees must promptly fulfill their mandatory reporting obligations. For other individuals, there is no deadline for reporting incidents of sexual misconduct. However, to promote prompt and equitable review, the University encourages individuals with reports of sexual misconduct to come forward as soon as possible. Delays in reporting limit the ability to respond to sexual misconduct, collect evidence, and take effective action against persons accused of violating this regulation.

7. Supportive Measures

a. *Provided by University*. The University will offer Supportive Measures to the parties in order to maintain an environment free from harassment, discrimination, or retal (s)-2.3 ((o (nd e)-1.2 (i)-4.6 (n a)9.

i. *How to File a Formal Complaint*. Individuals seeking to file a Formal Complaint should begin by reporting the alleged sexual misconduct (as described in Section 6.a and 6.b, above) or by contacting the University Title IX Coordinator or System

3. *Application of Other Policies Upon Dismissal of Formal Complaint.* This regulation applies exclusively to Title IX Sexual Misconduct, as defined in Section 4.q, above. Any other form of sexual misconduct is governed by System Regulation 07.06.B. Dismissal of a Title IX Sexual Misconduct Formal Complaint does not preclude action pursuant to other applicable disciplinary policies, including but not limited to those in System Regulation 07.06.B Non-Title IX Sexual Misconduct and the applicable *Student*

v. *Privileged Information.* The University, Complainant, Respondent, Title IX Coordinator, Investigator, Hearing Panel members, or facilitators of an Informal Resolution process cannot require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege and the University has obtained that party's voluntary, written consent to do so for the Grievance Process under this regulation. Such privileged documents include, among other things, documents that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party.

c. *Timeframe*. The process for addressing a Formal Complaint under the Grievance Process will be concluded within the reasonably prompt timeframe of one hundred twenty (120) business days. Notwithstanding the foregoing, there may be certain circumstances that allow for limited extensions of this timeframe for good cause. For such extensions of time or delays, there must be written notice to boow ((e)9.26 (eF)3r)-1.9 (r)7 (e)-1.7 -1.7 (h)-11 (e)9.2 (t)-4m66.587 a-4.60

1. Prior to the completion of an Investigative Report, the University shall provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the prehearing investigation that is directly

i. *Grounds for Appeal.* The parties may appeal a determination regarding responsibility or the University's dismissal of a Formal Complaint or any allegations therein on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;

2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;

3. The Title IX Coordinator, Investigator(s), or Hearing Panel Members had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or

4. The sanctions imposed substantially vary from the range of sanctions normally imposed for similar infractions.

ii. *Process for Appeal.*

1. *Filing by Appealing Party.* The appeal process is initiated upon a party's filing of a written appeal within three (3) University business days after University's delivery of the written decision regarding responsibility. The written appeal must be filed with the University's Title IX Coordinator or System Office of Equal Opportunity, as directed in the written determination regarding responsibility, and the party's written appeal must set forth the grounds for the appeal and any supporting information.

2. *Response of Non-Appealing Party*. Upon the filing of a written appeal, University will give written notice of the filed appeal to the non-appealing party. The non-appealing party will have three (3) University business days after University's delivery of the written notice to respond to the appeal.

3. *Appeal Officer*. The University will designate a decision-maker for the appeal (the "appeal officer"). The appeal officer shall not be the same person as any of the Hearing Panel members that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator.

4. *Response of Hearing Panel*. The appeal officer may submit the written appeal and non-appealing party's response to the Hearing Panel, and the Hearing Panel may submit its response in support of the appeal or original decision to the appeal officer.

5. *Review of Appeal*. The appeal officer will first review the appeal to determine if the appeal is timely and properly sets forth the appropriate grounds for appeal, with adequate accompanying evidence. If any of these requirements are not met, the appeal will be dismissed, and the decision will be final. If these preliminary requirements are met, the appeal officer will then review the substance of the appeal and make a final determination.

6. *Written Decision and Notice*. Within five (5) University business days of the non-appealing party's deadline to submit a response to the filed appeal, the appeal officer will issue a written decision describing the result of the appeal and the rationale for the result. The appeal officer will provide the written

decision simultaneously to both parties. The written decision of the appeal officer is final and may not be appealed.

k. *Informal Resolution Process*.

i. The Informal Resolution Process presents an alternative to the Grievance Process. After the parties have been provided written notice of a Formal Complaint, the University may offer and facilitate the Informal Resolution Process (which may include, but is not limited to, a mediation process). At any time prior to reaching a determination regarding responsibility, the University may begin the Informal Resolution Process by obtaining the parties' voluntary, written consent to use this Informal Resolution Process. Notwithstanding the foregoing, the Informal Resolution Process will not be offered to resolve allegations that a University Emplocr -10.4.6 (C)4 il8 (a)-1.6 (r)

Amendment does not constitute retaliation prohibited under this regulation.

b. The University will take appropriate steps to ensure that an individual who, in good faith, reports, complains about, or participates or refuses to participate in an investigation, proceeding, hearing, or other resolution pursuant to this regulation will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this regulation.

c. Subsection (a) does not apply to an Employee who:

   i. Reports an incident of Title IX Sexual Misconduct perpetrated by the Employee;

   ii. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the Employee perpetrated an incident of Title IX Sexual Misconduct; or

   iii. Makes a report of Title IX Sexual Misconduct which after investigation is found not to have been made in good faith.

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

e.

Policy and Campus Crime Statistics Act, as amended;[8] (3) a law enforcement officer as necessary to conduct a criminal investigation of the report by individuals described by Subsection (a); (4) a health care provider in an emergency, as determined necessary by the University; (5) the Respondent, to the extent required by other law or regulation; and (6) potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law or regulation.

c. For the purposes of this Section, investigation includes the coordination of the incident response, implementation of Supportive M

Title VII of the Civil Rights Act of 1964
Title IX of the Education Amendments of 1972
34 CFR Part 106
Texas Labor Code Chapter 21
Violence Against Women Act (VAWA)
Campus Sexual Violence Elimination Act of 2013 (Campus SaVE)
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
Texas Education Code Sections 51.9363; 51.251 – 51.260; and 51.281 – 51.295
Texas Family Code Sections 71.004 and 71.0021
Texas Penal Code Section 42.072

19. Right to Change Regulation

    a. The Texas Tech University System reserves the right to interpret, change, modify, amend, or rescind this regulation, in whole or in part, at any time without notice to or conseico ori (m)-4.6 (o or)3 (t)6.2