



Title IX Policy & Process

Fall 2020

Title IX Office

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Title IX

Federal Law prohibiting Sex Discrimination

Title IX Office at Austin College

1

Handle Reports &
Complaints

2

Provide Support for all
members

3

Enforce the Policy

Overview



Prohibited Conduct



Policy Definitions



Reporting Misconduct



Process Outline

Prohibited Conduct



Sexual Assault

- (A) “Rape” means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- (B) “Fondling” means the touching of the private body 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.
- (C) “Incest” means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (D) “Statutory Rape” means sexual intercourse with a person who is under the statutory age of consent.

Sexual Harassment – Title IX

- Sexual Harassment means unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Austin College's educational Program or activity.

Sexual Harassment - Texas

Sexual Harassment means unwelcome, sex based verbal or physical conduct that:

- (a) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
 - (b) 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 of Austin College.
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Quid Pro Quo

- Quid Pro Quo Harassment means an employee of the college conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

Stalking

- (A) 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.
- (B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- (C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Dating Violence

- “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 consideration of: 1) length of the relationship, 2) the type of relationship, and 3) the frequency of interaction between the persons involved in the relationship

Domestic Violence

- Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic of family violence laws of the jurisdiction receiving grant monies, or by any other person against the an adult or youth victim who is protected form that person's act under the domestic or family violence laws of Texas. (Citation: 34 U.S.C. 12291(a)(8))

Sexual Exploitation

- Sexual exploitation occurs when a person takes non-consensual, unjust, or abusive sexual advantage of another for their own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. This behavior may not fall within the definition of non-consensual sexual contact/activity, or sexual harassment, but it is still a violation of policy. There are many degrees and types of sexual exploitation.
- HB 2789 -> Sexually Explicit

Retaliation

- Retaliation occurs when an adverse action is taken against an individual for raising concerns about conduct which is prohibited by law or policy. All members of the Austin College community have the right to raise concerns or file a complaint without fear of retaliation. Additionally, it is a violation of college policy to retaliate against an individual for filing a report of sexual misconduct or gender-based discrimination. Retaliation is also prohibited against reporting participant, responding participant, and anyone who participates in an investigation of sexual misconduct or gender-based discrimination. Examples of retaliation include hostility, intimidation, threats, exclusion, or discrimination.

Sexual Orientation, Gender, Gender Identity

- Harassment based on sexual orientation, gender, or gender identity is defined as derogatory comments, actions, or conduct that may include acts of verbal, nonverbal, cyber, or physical aggression, intimidation, or hostility, even if those acts do not involve conduct of a sexual nature. Such conduct is directed toward an individual by virtue of their actual or presumed sexual orientation, gender, or gender identity and humiliates or intimidates an individual, impedes academic or work performance, or interferes with college life.
- Must meet the Sexual Harassment Standard.

Employee-Student Relationships

- Sexual, romantic, or dating relationships between employees and students are inconsistent with the mission of the College and inappropriate because they carry a risk of damaging the student's educational experience and the faculty or staff member's career. The College thus prohibits sexual, romantic, or dating relationships, even of a consensual nature, between employees and currently enrolled students. Enrolled students who are employed by College are considered students for consensual relationships

Intentional Presentation of False Information

- Participants in this resolution process must present, in good faith, truthful and accurate information to those involved in ensuring a fair process. Knowingly making false statements or presenting inaccurate information is unacceptable and will result in a separate disciplinary action regarding that conduct. Please note that filing a report or providing information which a participant or witness genuinely believes is accurate, but which is ultimately dismissed due to insufficient evidence or found to be untrue, does not constitute the intentional presentation of false information.

Scope of Policy

- Title IX & Texas Requirements
- Educational Program or Activity = **Locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the sexual harassment occurs, & also includes any building owned or controlled by a student organization that is officially recognized by the College.**
- On & Off Campus
- Never be nervous about Reporting



Policy Definitions

Consent

- Consent is clear, active, and affirmative permission to act, either by words or actions.
- The person who initiates sexual activity is responsible for obtaining the other person's consent for that activity each and every time.
- Once consent has been given, it can be withdrawn at any time.
- Consent can never be assumed or implied. The absence of "no" or silence does not mean that consent has been given.
- Additionally, consent to one form of sexual activity does not imply consent to other forms of sexual activity.

Incapacitated

An incapacitated individual is someone who cannot make rational, reasonable decisions because that person lacks the capacity to understand the “who, what, when, where, why, or how” of a sexual interaction. This includes a person whose incapacity results from a disability, sleep or lack thereof, involuntary physical restraint, unconsciousness, or use of alcohol or other drugs. Every individual may manifest signs of incapacitation differently; typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional distress, vomiting, or incontinence. The impact of alcohol and other drugs varies from person to person, and if there is any doubt as to the level or extent of the other person’s intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Coercion

- Coercion, meaning the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to have sex. When a person makes a clear decision not to participate in a particular form of sexual contact or sexual intercourse, a decision to stop, or a decision not to go beyond a certain interaction, continued pressure can be coercive.
- In evaluating whether coercion was used, the College will consider: (a) the frequency of the application of the pressure, (b) the intensity of the pressure, (c) the degree of isolation of the person being pressured, and (d) the duration of the pressure. Coercion includes continued pressure after an individual has made it clear that they do not want to engage in the behavior.

Amnesty

- In situations involving allegations of sexual misconduct, Austin College will seek to make the sexual misconduct allegation the primary focus of any investigation or disciplinary action. The College will not pursue disciplinary action against reporting participants, witnesses or a third party for disclosure of their own personal consumption of alcohol or drugs at or near the time of the incident provided that any such violation did not harm or place the health and safety of any other person at risk. It should be noted that the use of alcohol or drugs does not excuse sexual misconduct and a person who has been incapacitated through the use of alcohol or drugs (or by any other means) cannot give consent to sexual activity.

Reporting Misconduct

Official Reporting Channels

- In Person -> 900 N. Grand Ave., Caruth Admin., STE 6I
- Mail -> 900 N. Grand Ave., STE 6I Sherman, TX 75090
- Email -> moelfke@austincollege.edu // jsapp@austincollege.edu
- Phone -> 903.813.2433 // 903.813.2432
- Phone/Phone Anonymous -> 866.943.5787
- Online/Online Anonymous ->
<https://hopper.austincollege.edu/hlive/webhopper?TOKENIDX=6472200303&SS=1&APP=ST&CONSTITUENCY=WBST>

GET LINKED

Human Resources

Campus Offices

Directory

Email

Sexual Misconduct

Campus Conduct Hotline

Sexual Misconduct Policy & Reporting Link

(Bottom of every Austin College webpage)

Home » Campus Life » Sexual Misconduct Policy

Sexual Misconduct Policy

THE AUSTIN COLLEGE POLICY FOR SEXUAL MISCONDUCT AND HARASSMENT

[Austin College Sexual Misconduct Policy \(pdf\)](#)

This policy, dated August 14, 2020, supersedes any policies previously adopted and/or published in College handbooks, in the operational guide, or on the website.

Emergency Contacts

Counseling Services

Adams Center

903.813.2247

Campus Safety

Employees

- All Employees of Austin College who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident must report that information to the Title IX Coordinator.

Employee Failure to Report

- It is a violation of Texas Law & Austin College policy for an employee who is required to make a report to not make a report to the Title IX Office. The State of Texas has determined that an employee commits an offense if: 1) they are required to make a report & knowingly fails to make a report; or 2) with the intent to harm or deceive, knowingly makes a report that is false. These offenses are classified as Class B Misdemeanors, which can be upgraded to a Class A Misdemeanor at trial.
- As is required by Texas Law, Austin College shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed the offense of not making a report they knew of or making a false report.

Local police chief arrested over failure to report student's allegations



Confidential Employees

- Confidential Resources: Medical professionals, professional, licensed counselors and the College chaplain are not required to report any information concerning an incident without the participant's permission.

Counseling Services

Adams Center

903.813.2247

College Chaplain

Wynne Chapel

903.813.2220

Medical Professional

Adams Center

903.813.2247

Students -> FSL/RA

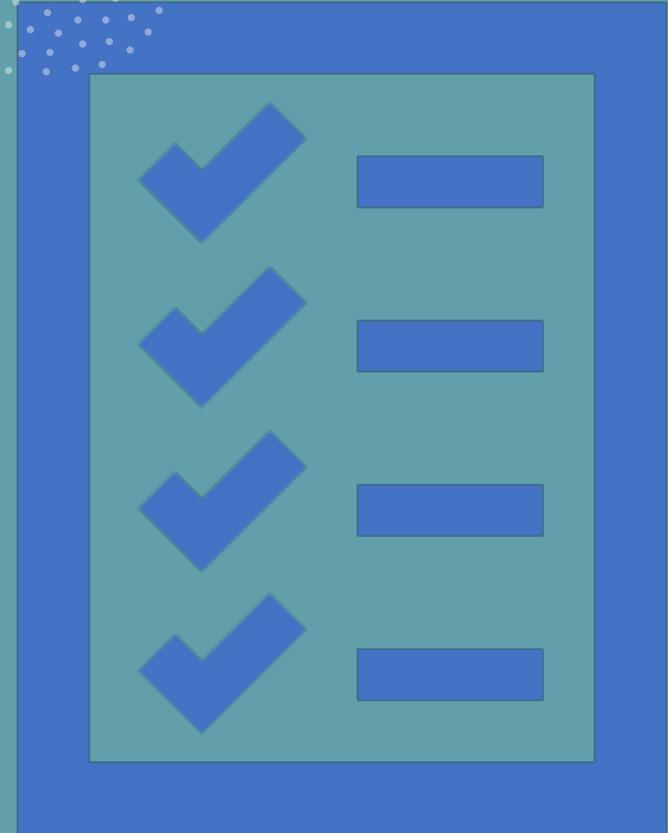
- Mandatory Reporters
- No Criminal Liability

Supportive Measures

Supportive measures may include:

- Counseling,
- Extensions of deadlines or other course-related adjustments,
- Modifications of work or class schedules,
- Campus escort services,
- Mutual restrictions on contact between the parties, (No Contact Order)
- Changes in work or housing locations,
- Leaves of absence,
- Honoring an order of protection or a no-contact order entered by a State civil or criminal court. Increased security and monitoring of certain areas of the campus.

Process Outline



Formal Complaint

1) Signed & Submitted

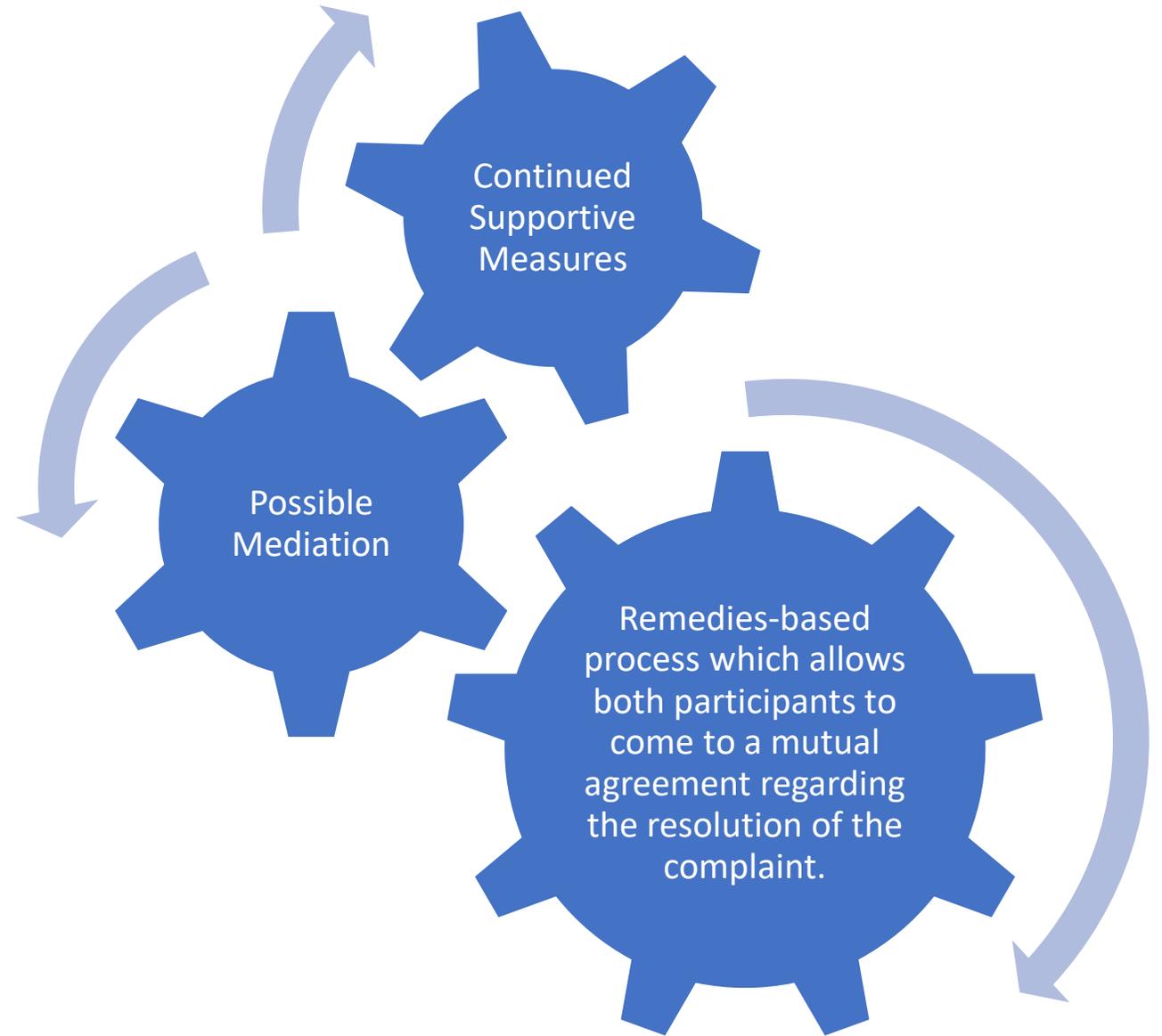
2) Notice of Allegations

3) Mandatory Review by Trained Designee

If Approved:

Formal or Informal

Informal Resolution



Formal Resolution

Investigation

Opportunity to review/respond to Evidence

Investigative Report review/respond

Live Hearing

- 1 Neutral Decision Maker
- PA only -> Cross Examination on relevant evidence
- May be performed Online if requested

Determination Report

- Possible Sanction

Appeal Available

Sanctions

- Possible sanctions include one or more of the following: Expulsion, Suspension, Probation, Educational sanctions
- Revocation or withholding of admission or degree pending completion of other
- No-contact orders
- Time and place restrictions or bans
- Housing restrictions
- Extension of requirements used as interim measures;
- Community service
- Loss of privileges
- Notation in permanent record
- Sanctions withheld, such as additional sanctions if deadlines for sanctions are not met
- Restorative justice requirement
- Specific sanctions that must be met before resuming status at Austin College
- Referrals for assessment, such as counseling or medical assessment
- Written warning or reprimand
- Oral warning or reprimand
- Termination of employment
- Other sanctions deemed appropriate by the Title IX Coordinator or designee

Appeals

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) 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; and
- (C) The Title IX Coordinator, investigator(s), or decision-maker(s) 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.



Austin College – Title IX

Questions?

<https://www.austincollege.edu/campus-life/sexual-misconduct/>