

Institutional Handbook of Operating Procedures Policy 03.02.01	
Section: Employee – Regulatory Compliance	Responsible Vice President: Senior Vice President and Chief Legal Officer
Subject: Nondiscrimination and Equal Opportunity	Responsible Entity: Department of Internal Investigations

I. Title

Nondiscrimination and Equal Opportunity

II. Policy

The University of Texas Medical Branch (UTMB) is committed to maintaining a safe environment. In compliance with applicable federal and state laws and regulations, UTMB prohibits discrimination against individuals on the basis of race, color, national origin, sex (including pregnancy, sexual orientation, gender identity, and expression), age, religion, disability, genetic information, or veteran status. This includes, but is not limited to, academic program admissions, employment, financial aid, health care services, educational services, and access to UTMB programs, facilities, or services. This applies to all employees and students, and anyone who utilizes UTMB facilities.

UTMB is committed to equal opportunities for all employees, applicants for employment, and applicants for admission to educational programs. It accepts the obligation as a member of the community-at-large and as a government employer to exercise an active and positive program of non-discrimination in all areas of employment and academic program admissions. Employment and academic program admission decisions are made by providing equal opportunity and access on the basis of qualifications and merit. This includes, but is not limited to, recruitment, promotion, compensation, benefits, and training.

External users of UTMB facilities (e.g., visitors, contractors, vendor representatives, etc.) are also encouraged to adhere to principles of fair treatment and equal opportunity consistent with applicable laws and governmental regulations. Failure to comply with the provisions of this policy may result in termination of business relationships and restricted or prohibited use of facilities.

In addition to providing equal opportunities for employment and participating in educational programs, UTMB is committed to a work and learning environment that supports a culture in which all individuals are treated with respect and dignity. Each individual has the right to work and learn in a professional atmosphere that promotes equal opportunities and prohibits unlawful discriminatory practices, including harassment. UTMB expects that relationships among individuals at UTMB will be professional and free of bias, prejudice, and harassment. Individual employee performance appraisals will reflect evaluation in this area.

III. Procedures

A. Responsibility for Equal Opportunity Programs

The President has delegated the responsibility to coordinate implementation of the Equal Opportunity programs within UTMB to the Department of Internal Investigations (DII).

B. Discrimination

Discrimination is conduct directed at an individual or group that subjects the individual or group to treatment that adversely affects their employment, education, or health care because of their race, color,

religion, national origin, sex, age, disability, veteran status, genetic information, sexual orientation, gender identity, or gender expression.

C. Harassment

1. Harassment is a form of discrimination defined as unwelcome conduct based on race, color, national origin, sex, age, religion, disability, sexual orientation, gender identity or expression, genetic information, or veteran status. Harassment violates this Policy when:
 - a. Enduring the offensive conduct becomes a condition of continued employment or enrollment; or
 - b. The conduct is sufficiently severe, pervasive, or persistent enough to create a work or learning environment that a reasonable person would consider intimidating, hostile, or abusive.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of a policy violation. To violate this Policy, the conduct must create a work or educational environment that would be intimidating, hostile, or offensive to reasonable people.

Constitutionally protected speech or expression is not considered harassment under this Policy.

2. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:
 - a. The harasser can be a supervisor (from any department), an agent of UTMB, a co-worker, or a non-employee.
 - b. Anyone affected by the offensive conduct may experience harassment, even if they were not the direct target.
 - c. Anyone affected by the offensive conduct may experience harassment, even if they were not the direct target.

D. Retaliation Prohibition

1. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit, opposing employment practices that they reasonably believe discriminate against individuals; or requesting supportive or protective measures.
2. Retaliation can take various forms, including but not limited to, withholding educational opportunities or experiences; denying promotions; revoking job-related benefits; demotions; negatively impacting a student's academic standing; issuing suspensions or terminations; delivering reprimands or unfavorable evaluations; engaging in harassment; or any other unfavorable treatment that is likely to discourage a reasonable person from exercising their rights.
3. Retaliation may be determined to have occurred even in cases where an initial good-faith report or complaint was not ultimately substantiated. Complaints of retaliation will be processed in accordance with **IHOP Policy 03.02.09 – Non-Retaliation**.

E. Required Employee Training

Each employee will attend a training program regarding UTMB's discrimination policies not later than the 30th day after the date the employee is hired and will attend supplemental training every year.

All employees who attend the training program are required to sign a statement verifying the employee's attendance at the training program. The statement will be filed in the employee's personnel file.

An employee's supervisor may require additional training depending on the employee's performance and responsibilities.

F. Investigation Participation Guidelines

1. Cooperation Requirement: Everyone who is subject to this Policy must cooperate in good faith with UTMB investigations. Failure to do so violates this Policy. Good faith cooperation includes, but is not limited to:
 - a. Providing honest and complete responses during the investigation
 - b. Identifying relevant witnesses
 - c. Submitting all pertinent documentation
 - d. Complying with information requests from designated university personnel
 - e. Attending scheduled meetings and interviews
2. Integrity in Reporting: Knowingly submitting false complaints or providing intentionally misleading information violates this Policy. A complaint that cannot be substantiated is not automatically considered false unless filed in bad faith. Bad faith is an intent to harm or deceive. Information is deemed materially false if it's untrue and could potentially sway the investigation's outcome.
3. Maintaining Investigation Integrity: Actions that deliberately obstruct the Policy's implementation are prohibited. Such interference may involve:
 - a. Attempting to manipulate witness statements
 - b. Tampering with or concealing relevant evidence
 - c. Deliberately providing or encouraging others to provide false information to investigators
4. Appropriate Use of Investigation Process: This Policy prohibits abuse of the investigative process. Abuse is determined by examining the overall circumstances and may include:
 - a. Persistently refusing to clarify allegations
 - b. Consistently failing to attend scheduled interviews without valid reasons
 - c. Filing multiple complaints or reports on substantially similar issues
5. Duty to Report: Employees in positions of authority (supervisors, UTMB officials, and administrators, or other employee who has authority to take action to rectify an alleged violation) must promptly report any incidents they reasonably believe implicate this Policy to DII. Students and other individuals, including visitors of UTMB, are encouraged to report suspected discrimination, harassment, or retaliation to DII.

G. Complaints and Reports

1. **Filing a Complaint or Report:** Employees or students who would like to submit a

discrimination complaint or report should contact UTMB's Department of Internal Investigations (DII), with the exception that Correctional Managed Care (CMC) employees. CMC employees should contact the appropriate regional CMC Human Resources office. Patients who would like to submit a discrimination complaint should contact the Office of Institutional Compliance (OIC). Complaints will be assessed and may be forwarded to different offices for appropriate processing. Investigations conducted by CMC Human Resources and the OIC may differ from those outlined in this Policy.

A complaint should include the following:

- a. Name of the Complainant(s)
- b. Contact information, including address, telephone, and e-mail address, if applicable
- c. Name of the person directly responsible for the alleged wrongdoing
- d. Date and place of the alleged wrongdoing
- e. Nature of the alleged wrongdoing
- f. Detailed description of the specific conduct that is alleged to constitute wrongdoing
- g. Copies of documents pertaining to the alleged wrongdoing
- h. Names of any witnesses to the alleged retaliation
- i. Complainant's signature and date of filing; and
- j. Any other relevant information

Complaints do not need to be submitted in writing, but it is encouraged. Oral complaints will be accepted and documented in an intake interview.

2. **Grievances:** Any employee or student who would like to initiate a grievance should implement the appropriate grievance procedure as described in **IHOP Policy 03.01.10 - Grievance Policy**.
3. **Timeliness:** Any individual who intends to submit a complaint of discrimination to DII is encouraged to submit their complaint as soon as possible, and must do so within three hundred (300) calendar days following the date the alleged discriminatory action(s) occurred. In harassment cases, the complaint must be submitted to DII within three hundred (300) days of the last incident of harassment, and if this occurs, all incidents of this alleged harassment (even those alleged to have occurred more than 300 days earlier) will be reviewed. DII may extend the 300-day filing deadline when good cause supports the extension. Complaints or reports alleging sex discrimination in wages and/or benefits must be submitted to DII within three (3) years from the date the individual received the last paycheck at issue.
4. **Acknowledgement:** DII will acknowledge receipt of any complaint or report within five (5) working days, excluding University holidays and closures. This acknowledgment will be sent to the person who filed the complaint or report. DII may also request to set up an initial meeting with the filer to gather additional details about the reported incident(s).
5. **Failure to Report:** If a UTMB office other than DII receives a complaint of discrimination, that complaint must be referred to DII as soon as possible. Supervisory employees who fail to promptly notify DII of discrimination concerns expressed by employees or students may be subject to disciplinary action.

6. **Sexual Misconduct:** Complaints of sexual misconduct will be processed under **IHOP Policy 03.02.04 - Sexual Misconduct**. UTMB's Title IX Coordinator will oversee complaints of sexual misconduct as well as complaints of sex-based discrimination.
7. **Pregnancy and Parenting:** Complaints of discrimination against students based on their pregnancy or parenting status will be processed in accordance with **IHOP Policy 07.01.09 - Student Pregnancy and Parenting Nondiscrimination Policy**.
8. **Anonymous Reporting:** If an individual's wish to remain anonymous limits the University's ability to establish facts and eliminate potential discrimination, UTMB will attempt to find the right balance between the individual's desire for privacy and confidentiality and its responsibility to provide an environment free of discrimination.
9. **Standard of Review:** All investigations conducted under this Policy will use the preponderance of the evidence standard. This standard is satisfied if the action is deemed more likely to have occurred than not.
10. **Confidentiality:** Information related to an investigation of discrimination, harassment or retaliation can be sensitive, and UTMB will take appropriate steps to maintain the greatest degree of confidentiality possible and as allowed by law. In all situations, confidentiality is maintained on a strict need-to-know basis; however, confidentiality can only be preserved insofar as it does not interfere with UTMB's obligation to investigate allegations of discrimination, harassment, and retaliation. While DII does not impose mandates barring individuals from disclosing matters related to its investigations, participants in an investigation will be advised that maintaining confidentiality is essential to protect the integrity of the investigation and will be asked to refrain from discussing the complaint or investigation during the resolution process.
11. **Interim Measures:** At any time during the investigation, if it is determined that interim measures are required to mitigate potential discrimination, harassment, or retaliation during the pendency of the investigation, DII may recommend interim protective measures after consultation with appropriate University officials. Interim measures are not disciplinary in nature and must be consistent with other University policies.

H. Investigation Process

1. Initial Assessment and Review

- a. **Preliminary Assessment:** DII will conduct a preliminary assessment of all complaints and reports. This assessment will determine if the complaint or report provides sufficient information about the alleged conduct, whether the alleged conduct (if proven true) would fall under the scope of this Policy, and whether a formal investigation is warranted.

Intake Review: The assessment may include an intake review, which may consist of conducting interviews, and performing a preliminary fact-finding inquiry (due diligence inquiry) to gather additional information. A *due diligence inquiry* is not a formal investigation but includes appropriate steps to properly and thoroughly evaluate the complaint or report and determine if a formal investigation is warranted.

- b. **Potential Outcome/Resolution of Complaints or Reports:** DII will ultimately determine whether the complaint or report should be (i) dismissed due to insufficient evidence or information; (ii) dismissed because the Respondent is not a University faculty, staff, student, student organization, visitor, contractor, University affiliate, or applicant for admission or employment; (iii) dismissed and referred to the appropriate department for informal resolution; (iv) dismissed and referred to the appropriate department for further review; or (v) elevated to a formal investigation. Additionally, if a complaint or report is withdrawn, DII may choose to initiate a due diligence inquiry if the alleged conduct implicates this Policy.

DII reserves the right to reopen complaints and reports that are dismissed should new, relevant information emerge.

- c. **Notification of Results:** If DII decides that a complaint or report warrants dismissal, DII will notify the Complainant and Respondent (if the Respondent was interviewed during the initial review or if DII believes the Respondent is aware of the complaint or report). This notice will include a concise summary of the relevant known information and a brief explanation for DII's decision. The notice will also be sent to the appropriate leader or designee, as well as to any departments on a need-to-know basis.

2. Informal Resolution

DII has the discretion to determine whether an informal resolution is suitable and, if so, will direct the complaint or report to the relevant department.

- a. Factors used to determine whether an informal resolution is appropriate include but are not limited to:
 - i. The stated desire of the Complainant
 - ii. The nature of the alleged misconduct
 - iii. Whether DII has record of previous complaints or reports against the Respondent
 - iv. Whether there are multiple people impacted by the alleged misconduct
 - v. The overall safety of the campus community

- b. Possible methods for informal resolution include but are not limited to:

- i. Coaching the individual on how to address the problematic situation directly,
- ii. Mediated conflict between the Parties,
- iii. Assisting in modifying the environment where the offensive behavior took place,
- iv. Supporting a division in resolving a real or perceived issue, or
- v. Facilitating a documented meeting to discuss the University's behavioral expectations.

The University will document any informal resolution, and DII will maintain this documentation, keeping it confidential as permitted by law.

3. Formal Investigation

- a. **Investigation Responsibility:**

- i. DII is responsible for conducting formal investigations of complaints and reports involving possible violations of this Policy. DII will initiate a formal investigation if a complaint is within the scope of this Policy and articulates sufficient specific facts, which, if determined to be true, would support a finding that this Policy was violated.

- ii. Notwithstanding the above, DII may initiate an investigation at the request of Human Resources, deans, directors, department or unit heads, or vice-presidents, or at DII's sole discretion when the facts or circumstances warrant such. Additionally, if a complaint/report is withdrawn, DII may choose to initiate a formal investigation if the alleged conduct implicates this Policy.

b. **Delegation in Certain Circumstances:** If a complaint or report is directed against an individual who would otherwise play a role in investigating or resolving the complaint/report, or there is any other conflict of interest present, the function assigned to that person by these procedures will be delegated to another person, as determined appropriate by the Senior Vice President/Chief Legal Officer.

c. **Notice of Investigation:** If a complaint or report proceeds to a formal investigation, DII will provide the Parties a written Notice of Investigation (NOI). The NOI will include:

- i. A clear description of the allegations under investigation
- ii. Information about the Respondent's right to provide a written response to the allegations within seven (7) business days of receiving the notice, with possible extensions for special circumstances
- iii. A warning that retaliatory actions are prohibited and will result in appropriate disciplinary action
- iv. Notification that both Parties can have an advisor of their choosing throughout the investigative process
- v. A request for confidentiality from all involved to maintain the investigation's integrity
- vi. A statement outlining the obligation of all Parties to cooperate
- vii. The contact information of the assigned DII investigator

d. Investigation Procedures:

- i. In addition to the Parties, leadership will be notified of the investigation.
- ii. Evidence will be gathered and analyzed.
- iii. Parties may present any document or information that is believed to be relevant to the complaint, including the names of witnesses who may provide relevant information.
- iv. DII may interview the Complainant(s), Respondent(s), and relevant witnesses. Neither party will attend witness interviews.
- v. At the conclusion of the investigation process, the Parties will receive a Preliminary Investigation Report (PIR). The PIR will outline each of the allegations that implicate a potential violation of this Policy, summarize the relevant evidence, and issue a preliminary finding of whether a policy violation has occurred (based on a "preponderance of evidence standard").

DII will redact student identifiable information and other information that is confidential by law. DII also reserves the right to redact the names of witnesses for confidentiality and privacy reasons, as well as to mitigate a perceived risk of retaliation.

- vi. The Parties will have seven (7) business days from the date of receipt of the PIR to submit a written response. DII will review and consider any responses received by the Parties and determine if further investigation is warranted.

- vii. After the Parties have had an opportunity to respond to the PIR, DII will provide a Final Investigation Report (FIR) to the Parties and the appropriate administrator.
 - e. DII will complete a formal investigation of the complaints soon as possible. Complainants and Respondents may request updates on the progress of the investigation.
 - f. If it is determined that this Policy was violated, the matter will be referred to the appropriate disciplinary process. Dependent on the status of the Respondent (i.e., student, faculty, or employee), the appropriate administrator will impose disciplinary action or sanction(s) in accordance with the applicable policies and procedures, which may include the following:
IHOP Policy 03.01.09 - Discipline, Dismissal, and Appeal for Classified Employees
IHOP Policy 05.03.10 – Termination
 - g. UTMB Police Officers are subject to disciplinary action in accordance with The University of Texas System Police Policy 208 Discipline and Appeal Procedure.
 - h. The Student Affairs Dean of each school and the Student Conduct and Discipline Office will impose disciplinary action, if any, against a student under **IHOP Policy 07.01.03 - Student Conduct and Discipline**. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.
- 4. Parties to an investigation may be accompanied by an advisor, who may be an attorney, to any meeting with DII. Advisors may not examine witnesses or otherwise actively participate in a meeting or interview. An individual may only have one advisor present at a time. The advisor may not be a participant or decision maker in the subject investigation.
 - 5. UTMB shall document complaints and their resolution and retain copies of all materials in accordance with state and federal records laws and UTMB Policy.
 - 6. The filing of a discrimination or harassment complaint under this Policy does not excuse the Complainant from meeting deadlines set by law or an external administrative agency.

IV. Definitions

Complainant: The person who is alleged to have experienced conduct prohibited by this Policy.

Complaint: Information provided to DII by the Complainant, claiming a violation of this policy. This can include verbal statements if properly acknowledged.

Participants: The Complainant, Respondent, and witnesses.

Parties: The Complainant and the Respondent under this Policy.

Preponderance of the Evidence: The greater weight of the credible evidence. This standard is satisfied if the action is deemed more likely to have occurred than not. Preponderance of the evidence is the standard for determining allegations of conduct that violate this Policy.

Report: Information, including oral statements (if appropriately acknowledged), submitted to DII by a Reporter, alleging a violation of this Policy.

Reporter: An individual, other than a Complainant, making a Report of an incident(s) under this Policy.

Respondent: The individual reported to be the perpetrator of prohibited conduct under this Policy.

V. Relevant Federal and State Statutes

[Texas Labor Code, Chapter 21](#)

Titles [VI](#) and [VII](#) of the Civil Rights Act of 1964, as amended

[Age Discrimination in Employment Act of 1967, as amended](#)

[Age Discrimination Act of 1975](#)

[Americans with Disabilities Act of 1990](#)

[Equal Pay Act of 1963](#)

[Vietnam Veterans' Readjustment Assistance Act of 1974](#)

[Executive Order of 11246 – Equal Employment Opportunity](#)

[Section 503 of the Rehabilitation Act of 1973](#)

[Section 504 of the Rehabilitation Act of 1973](#)

[Title IX of the Education Amendments of 1972](#)

Title 45 Code of Federal Regulations Parts [80](#), [84](#), and [91](#)

VI. Related System Policies and Procedures

[UTS105 Sexual Orientation Nondiscrimination Policy](#)

VII. Related UTMB Policies and Procedures

[IHOP 03.01.09 - Discipline, Dismissal, and Appeal for Classified Employees](#)

[IHOP 03.01.10 - Grievance Policy](#)

[IHOP 03.02.04 - Sexual Misconduct](#)

[IHOP 03.02.09 – Non-Retaliation Policy](#)

[IHOP 04.02.01 - Historically Underutilized Businesses \(HUB\)](#)

[IHOP 05.03.10 - Termination](#)

[IHOP 07.01.03 - Student Conduct and Discipline](#)

[IHOP 07.01.09 - Student Pregnancy and Parenting Nondiscrimination Policy](#)

[IHOP 09.03.13 – Patient Rights and Responsibilities](#)

VIII. Dates Approved or Amended

<i>Originated: 4/01/1990</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
7/12/2012	
7/25/2016	
06/10/2020	
1/7/2025	

IX. Contact Information

Department of Internal Investigations/Title IX Office
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