Section 3	Human Resources Policies	06/20/96 - Originated
Subject 3.2	Equal Employment & Affirmative Action	09/07/12 - Reviewed w changes - Reviewed w/o changes
Policy 3.2.4	**Sexual Harassment and Misconduct**	10/03/12 - Effective Human Resources - Author

Sexual Harassment and Misconduct

Definitions

A. **Sexual Misconduct**. Sexual misconduct includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment but is unprofessional and inappropriate for the workplace, classroom, or outside work setting while on official UTMB business.

B. **Sexual Harassment.** Sexual harassment, includes unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of employment or student status;
2. submission to or rejection of such conduct is used as a basis for evaluation in making personnel or academic decisions affecting that individual;
3. such conduct has the purpose or effect of unreasonably interfering with an individual's performance as an administrator, faculty member, staff or student, or creating an intimidating, hostile or offensive environment.

C. **Third Party Sexual Harassment**. Third party sexual harassment occurs when an individual is affected adversely by sexual harassment but is not the target of the adverse behavior.

Policy

The University of Texas Medical Branch is committed to provide a work and learning environment that is free from inappropriate conduct that is sexual in nature. Sexual misconduct and sexual harassment in any form will not be tolerated and individuals who engage in such conduct will be subject to disciplinary action. This policy is applicable regardless of the gender of the complainant or the alleged harasser.

An employee found to be in violation of this policy shall be subject to disciplinary action which may include termination for employees and sanctions, including suspension or expulsion for students. Failure or delay by a supervisor to follow-up by notifying the Human Resources Office of Employee Relations or sending the employee to Employee Relations regarding the allegations of sexual harassment will result in

Policy, continued

disciplinary action as stated above. When the allegation is against the supervisor, the management person who receives the allegations(s) is required to contact Employee Relations or send the complainant to Employee Relations.

Violations of this policy by persons who are not employees or students could result in a ban from the institution, the loss of contracts, or other punitive action depending on the individual's relationship with UTMB.

Examples of Sexual Harassment/ Misconduct

Examples of behavior that could be considered sexual misconduct or sexual harassment include but are not limited to:

1. physical contact of a sexual nature including touching, patting, hugging, or brushing against a person's body;
2. explicit or implicit propositions or offers to engage in sexual activity;
3. comments of a sexual nature including sexually explicit statements, questions, jokes or anecdotes; remarks of a sexual nature about a person's clothing or body; remarks about sexual activity; speculation about sexual experience; exposure to sexually oriented graffiti, pictures, posters, or materials;
4. physical interference with or restriction of an individual's movements;
5. making sexual advances or requesting sexual favors if submission to or rejection of such conduct is the implicit or explicit basis for imposing or granting terms and conditions of employment or education at the University;
6. making sexual advances, requesting sexual favors, or otherwise discriminating on the basis of gender in a manner that unlawfully creates an intimidating, hostile, or offensive working, residential, or educational environment at the university or that otherwise unlawfully interferes with an individual's work or educational performance;
7. engaging in any sexual contact against a person who has not given consent or committing any act of sexual assault, public sexual indecency, or sexual abuse against a person who has not given consent;
8. acting, recommending action, or refusing to take action in a supervisory position in return for sexual favors, or as a reprisal against a person who has rejected, reported, filed a complaint regarding, or been the object of sexual harassment.

Non-Retaliation and False Accusation of Sexual Harassment

The administration, staff, and faculty are prohibited from retaliating against or disciplining any person for reporting an allegation of sexual harassment. Any employee or student who makes an intentionally false accusation of sexual harassment shall be subject to disciplinary action, which may include termination or suspension or expulsion.

Confidentiality

The university shall protect the confidentiality of the identities of, and statements made by, parties and witnesses involved in a sexual harassment report or complaint to the extent permitted by law and to the extent that continued protection does not interfere with the university's ability to investigate allegations of misconduct brought to its attention and to take corrective action.

Amorous/ Consensual Relationships (i.e. romantic or sexual)

Recognizing everyone's right to privacy and free association, UTMB does not prohibit fully consensual amorous relationships with the exceptions of those noted below.

Employees and students must realize that even consensual amorous relationships may lead to sexual harassment, conflict of interest or other breaches of professional obligations, particularly if one of the individuals in the relationship has a professional responsibility toward the other, such as in the context of instruction, advisement or supervision. As a result of the power difference, it may be difficult to avoid the appearance of favoritism or to assure a truly consensual relationship. Amorous relationships may result in conduct that amounts to sexual harassment, a conflict of interest or that violates the professional duties of evenhanded treatment and maintenance of an atmosphere conducive to learning or working.

Others may be affected by the relationship in that it places the faculty member or supervisor in a position to favor or advance one student or employee's interest at the expense of others.

No faculty member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member or when academic work is being supervised by the faculty member or when that faculty member has or is likely to have academic responsibility over that student at any time during that student's tenure at UTMB. No person in a supervisory position shall have romantic or sexual relationship with anyone that he or she supervises. No employee shall have a romantic or sexual relationship with another employee or student that may result in a breach of his or her professional obligations or if such relationship

Amorous/ Consensual Relationships (i.e. romantic or sexual), continued

creates a conflict of interest.

Complaints concerning consensual relationships by non-participating individuals will be treated as third-party sexual harassment or sexual misconduct complaints and be reported to Employee Relations or to the Student Equal Opportunity Officer.

Reporting Sexual Harassment and/or Sexual Misconduct

An individual, who believes that he or she has been the victim of sexual harassment as prohibited by this policy, should report the incident(s) to any member of UTMB management. The following are recommended resources for reporting violations of this policy:

Employees

1. Human Resources Office of Employee Relations
2. the academic or administrative official responsible for the department
3. the immediate supervisor of the alleged harasser, if the alleged harasser is an employee;

Correctional Managed Care (CMC)

1. UTMB CMC employees are to report the incident to their assigned Regional Human Resources Representative and/or to the supervisors

Students

1. the Ombudsman for Student Life if a student is making the report;
2. Student Equal Opportunity Officer
3. Student Affairs Deans of each school.

Any faculty member or administrative personnel who gains knowledge of an alleged act of discrimination, which violates this policy, must report the incident within three (3) business days to Employee Relations.

Filing a Complaint of Sexual Harassment and/or Sexual Misconduct

Employees may file a complaint of sexual harassment or sexual misconduct with the Human Resources Office of Employee Relations.

Students may file a complaint with the Student Equal Opportunity Officer in Human Resources. The initial complaint must be filed within 180 days after the alleged harassment.

Investigating and Resolving Complaints

All investigations of sexual harassment complaints shall be conducted discreetly by Employee Relations or the Student Equal Opportunity Officer.

Investigating and Resolving Complaints, continued

1. The investigation may include, but is not limited to, interviews with witnesses and discussions with the involved parties. After the investigation is completed Human Resources will issue findings and, if necessary, recommended corrective measures.
2. If findings support the charge of sexual harassment against the accused employee, that employee shall be subject to disciplinary action which may include termination, or suspension or expulsion in the case of a student.
3. All decisions regarding discipline of the accused employee will be made in consultation with the Office of Human Resources Department, or with the Associate Vice President for Student Support Services if the complaint involves a student.
4. The results of the Office of Human Resources investigation will be communicated to the department head and the entity leader when an employee is the complainant; and to the chair of the department and the Dean of Students of the specific school, when the person filing the complaint is a student.

Training and Dissemination of Information

Each employee shall complete a training program regarding sexual harassment not later than the 30th day after the date the employee is hired and shall 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 shall be filed in the employee's personnel file. For employees participating in training online, documentation of such training will be filed in their personnel file.

During orientation, students are referred to the University catalog in which the sexual harassment policy is indexed under conduct and discipline. Students are also required to complete a training program as part of institutional training every two years.