



Institutional Handbook of Operating Procedures
Policy 03.02.01

Section: Human Resources Policies	Responsible Vice President: Vice President and Chief Human Resources Officer
Subject: Equal Employment and Affirmative Action	Responsible Entity: Human Resources

I. Title

Nondiscrimination, Equal Employment Opportunity, and Affirmative Action

II. Policy

The University of Texas Medical Branch (UTMB), in compliance with applicable federal laws and regulations, strives to maintain an environment free from discrimination against individuals on the basis of race, color, national origin, sex (including pregnancy), age, religion, disability, sexual orientation, gender identity and expression, 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 employment 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.

UTMB is also committed to programs of affirmative action designed to overcome under-utilization and under-representation of women, minorities, protected veterans, individuals with disabilities and other such historically underrepresented groups in the workplace and education programs. Affirmative action will be implemented in recruitment advertising, recruitment, hiring, training, and promotions in all job classifications in which members of the groups identified above are underutilized.

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 of diversity and inclusion 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. Responsibility for Equal Opportunity and Affirmative Action Programs

- A. The President has delegated the responsibility to coordinate implementation of the Equal Employment Opportunity and Affirmative Action programs within UTMB to Human Resources.
- B. Human Resources prepares required state and federal reports for UTMB Administration.
- C. Human Resources will work with departmental management to evaluate hiring goals in accordance with the Affirmative Action Plan annually.

IV. 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, sexual orientation, gender identity, or gender expression.

V. Harassment

- A. 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 becomes unlawful when:
 - 1. Enduring the offensive conduct becomes a condition of continued employment or enrollment (generally a form of sexual harassment); or
 - 2. 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.
- B. 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; or opposing employment practices that they reasonably believe discriminate against individuals.
- C. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work or educational environment that would be intimidating, hostile, or offensive to reasonable people.
- D. 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:
 - 1. The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
 - 2. The victim does not have to be the person harassed but can be anyone affected by the offensive conduct.
 - 3. Unlawful harassment may occur without economic injury to, or discharge of, the victim.
- E. UTMB encourages individuals who believe they are being subjected to conduct to promptly advise the offender that his or her behavior is unwelcome and to request that it be discontinued. However, UTMB recognizes that an individual may prefer to pursue the matter through official

complaint procedures. Keep in mind that, when an official complaint is filed, you may be asked if you have attempted to address the complaint with the alleged offender.

VI. 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 two years.

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 such as unconscious bias training and cultural competency training depending on the employee's performance and responsibilities.

VII. Complaints

- A. Any employee or student who has a grievance under this policy should implement the appropriate grievance procedure as described in Policy 3.1.10, Grievance Policy, or contact the Department of Internal Investigations.
- B. If a UTMB office other than the Department of Internal Investigations receives a complaint of discrimination, it must be referred to the Department of Internal Investigations as soon as possible.
- C. Correctional Managed Care (CMC) employees who have a complaint under this policy should contact the appropriate regional CMC Human Resources office.
- D. Complaints of sexual harassment or sexual misconduct will be processed under Policy 3.2.4, Sexual Misconduct. UTMB's Title IX Coordinator will oversee all complaints and investigations under this policy.
- E. Retaliation on the basis of a complaint is prohibited, and all inquiries will be confidential to the extent permitted by law.
- F. If a patient feels that their rights under this policy have been violated, Patient Services should be contacted. Patient Services will assess the complaint and may forward it to a different office for appropriate processing.

VIII. Informal Resolution of Certain Discrimination Complaints (OPTIONAL).

- A. After receiving a complaint of discrimination, the Department of Internal Investigations will notify the complainant of the two methods of resolution, informal resolution, and formal investigation, which may be utilized. Informal resolution may include directing a UTMB official to inform the offending party to stop the unwelcomed conduct, providing the complainant with strategies for communicating to the offending party that his or her behavior is unwelcomed and should cease, or initiating mediation. However, UTMB may take more formal action, including disciplinary action, to ensure an environment free from discrimination. An individual wishing to use the informal resolution process should notify the Department of Internal Investigations as soon as possible.
- B. The Department of Internal Investigations will conduct a preliminary assessment of the facts of the complaint and the complainant's preferred method of resolution in order to determine whether informal resolution or formal investigation is appropriate. After making this

determination, the Department of Internal Investigations will notify the complainant of the method of resolution that will be utilized.

- C. If the complainant opts to pursue informal resolution and the Department of Internal Investigations determines that this method of resolution is appropriate based on the facts of the complaint, the complainant may elect to resolve the complaint formally at any point prior to the conclusion of the informal resolution.
- D. Informal resolutions should be completed no later than 10 business days after the date the Department of Internal Investigations notifies the complainant that the informal resolution process will be utilized. However, if there is a delay in processing the informal resolution, the complainant will be notified.
- E. UTMB will document informal resolutions, which will be retained by the Department of Internal Investigations in accordance with records retention requirements.
- F. 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.
- G. All investigations conducted by the Department of Internal Investigations under this policy will use the preponderance of the evidence standard to determine violations of this policy.

IX. 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](#)
- [Sections 503 and 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](#)

X. Related System Policies and Procedures

- [UTS105 Sexual Orientation Nondiscrimination Policy](#)

XI. Related UTMB Policies and Procedures

- [IHOP - 03.01.10 - Grievance Policy](#)
- [IHOP - 03.02.04 - Sexual Misconduct](#)
- [IHOP - 04.02.01 - Historically Underutilized Businesses \(HUB\)](#)

XII. 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	

XIII. Contact Information

Human Resources – Diversity and Inclusion
(409) 747-4862

Department of Internal Investigations/Title IX Office
investig@utmb.edu