

2024- 2025

the  
outback guide



## The Outback Guide



Members of the Austin College community,

The contents of this guide are provided so that you will be a well-informed member of the Austin College community. It contains key college policies as well as additional information about the College, which is being distributed in compliance with federal law.

Please take a few minutes to familiarize yourself with this booklet. If you should have any questions about what you read, please feel free to contact either me directly or the specific staff member responsible for the information.

Sincerely,

Michael Deen  
Associate Vice President of Student Affairs & Dean of Students  
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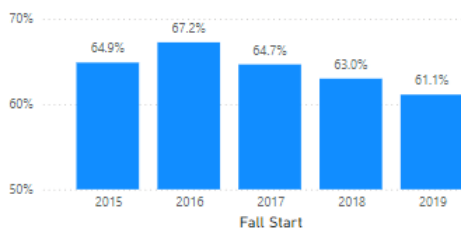
## Completion/Graduation Rate

In accordance with the Student Right-To-Know Act, the six-year completion rate for students who entered Austin College in 2017 on a first-time-in-college and full-time basis was 69.5%. The four-year completion rate for students who entered Austin College in 2019 on a first-time-in-college and full-time basis was 61.1%.

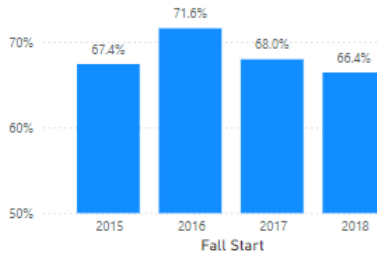
### Graduation Rates

## Graduation Rate First-time, Full-time Undergraduates

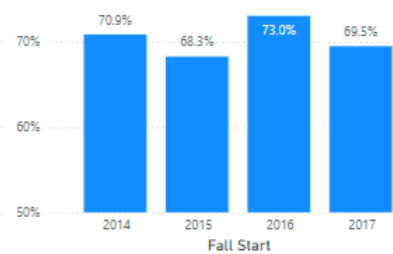
4-Year Rate



5-Year Rate



6-Year Rate



#### Notes

1. Only first-time-in-college students included.
2. Source: Internal census files.
3. Published Sep. 22, 2023



## AC Alert Emergency Notification System

AC Alert is an emergency notification system provided to all Austin College students, faculty, and staff. It is provided by NTI Connect-ED and is designed to help facilitate emergency communication by voicemail, email, and text messages.

The safety of the students, faculty, and staff at Austin College is very important. For this reason, Austin College developed an emergency notification system. This system allows the College to send a message quickly by cell phone (including text messaging), landline, and email to alert students, faculty, and staff to emergency situations at Austin College. The information provided will only be used in an Austin College emergency situation.

Students are **REQUIRED** to confirm and update if necessary their AC Alert Emergency Notification Information at the beginning of each year or the beginning of the Spring semester if not enrolled in the Fall. If the information is not updated by the 12<sup>th</sup> class day of the semester, a fine of \$25 per week will be assessed until the record is completed.

The delivery success is only as accurate as the contact information provided. If this information changes throughout the year, please update AC Alert Emergency Info in Webhopper.

## **Campus Security & Personal Safety**

The security of members of the College community is of vital concern to the Austin College Administration and especially the Campus Police Department.

However, students, faculty, and staff must actively accept responsibility for doing their part to maintain a safe environment. All members of the College community have a responsibility to themselves and others to use due care for their safety and to comply with all local, state, and federal laws, as well as College regulations for the protection of others.

Failure to take precautions or maintain an awareness of the environment and surroundings may result in increased crime. Campus Police will continue to develop and implement security measures, but these measures cannot succeed without the personal support of faculty, staff, students, and visitors.

The Austin College Police Department is committed to providing quality service and protection to the campus community while working within the framework of its authority and resources.

Officers are responsible for a full range of public safety services including all crime reports, investigations, medical and fire emergencies, traffic accidents, enforcement of laws regulating alcohol, the use of controlled substances, weapons, and all other incidents requiring police assistance.

All campus police officers are fully commissioned police officers under the provisions of 51.212 of the Texas Education Code and have the same arrest authority as other law enforcement officers. All officers are graduates of a police academy. They have full law enforcement authorities throughout all property owned and controlled by Austin College.

The department's ability to function as an independent law enforcement agency enables it to provide a sensitive, measured approach to all situations requiring police assistance while still maintaining the authority of the College.

The Campus Police Department maintains a close working relationship with the Sherman Police Department, Grayson County Sheriff's Department, state and federal law enforcement agencies, and all appropriate elements of the criminal justice system. Assistance and support from these agencies can be obtained immediately. Crime related reports and statistics are routinely exchanged.

## **Firearms On-Campus**

Current Texas law and Austin College policy forbids the carrying of any type of handgun (concealed or otherwise) on Austin College property at any time. Austin College regulations allow members of the College community to bring shotguns or rifles on campus, provided they are stored at the Campus Police & Safety Office under lock and key. The owner may retrieve the weapon(s) at any time if the owner is taking them off campus.

## Reporting Criminal Activity or Other Emergencies

Individuals who want to report alleged criminal action or emergencies that occur on-campus may do so by:

- Calling Campus Police at (903) 813-2555
- Visiting the Campus Police Office in Jackson Technology Center
- Utilizing the blue emergency telephones located around campus
- Dialing 911 *Note:* all 911 calls are routed to the City of Sherman Dispatch Office for police, fire, and ambulance
- Requesting assistance from any officer on patrol

Austin College Police Department will dispatch an officer immediately to investigate suspected criminal activity. Responses include, but are not limited to:

- Dispatching one or more officers
- Investigation reports
- Arresting and filing charges, depending upon the circumstances of the offense
- Referring alleged offenders to appropriate campus agencies for action
- Offenses occurring off campus should be reported to the appropriate local law enforcement agency.

## Crime Reporting

Efforts are made to advise the campus community about relevant campus crimes and crime related problems on a timely basis. These include the AC Mobile App, the College's student newspaper, Special Crime Alerts, and in extreme situations, crime bulletins are distributed through the campus voice mail system or e-mail system.

## Maintenance & Security of Campus Facilities

Campus Police Officers patrol the campus in an effort to assure a high level of physical security. As a regular part of their patrol duties, they look for any safety problems such as defective lighting, inoperative doors or locks, broken sidewalks, steps and handrails, and any other condition which might detract from one's personal well-being. All such conditions can be reported in writing to the Physical Plant Department or by calling Campus Police at (903) 813-2555.

## Questions & Answers about Security

Q: Do Campus Police personnel conduct regular patrols of the campus?

A: Yes. Campus Police Officers patrol campus 24 hours a day, seven days a week.

Q: Do residence halls have Campus Police personnel stationed at the entrances on a 24-hour basis?

A: No, but the doors are checked by campus police, and doors have special electronic locks that work only with a validated Austin College identification card.

Q: Is a log kept in the residence halls of non-resident guests?

A: No. Non-residents are denied access through the use of electronic locks and therefore must either be accompanied by a resident of the building or granted access permission by an authorized agent, such as Student Life or Campus Police.

Q: Do Campus Police personnel enter and patrol hallways of residence halls?

A: Not regularly. Residence hall personnel handle the supervision and monitoring of corridors in each hall. Campus Police do access the halls when appropriate, including after a door is found open or a suspicious person is reported to Campus Police.

Q: Do all residence hall doors lock automatically?

A: Yes. All residence halls utilize the Best Lock System, which includes doors that do lock automatically.

Q: Do residence hall doors have electronic alarms to warn of propped exterior doors?

A: Yes, an electronic system alerts Campus Police when doors are propped open.

Q: Can a student be assigned a different room if the student believes that their living space is not secure?

A: Yes, any student may apply for a change in room assignment after the first two weeks of a semester. If the circumstances are viewed as unsafe or extenuating, immediate action should be pursued through the Student Life Office.

Q: Are emergency telephone numbers provided and posted conspicuously?

A: Yes. There are 18 blue light emergency telephones strategically located across campus that automatically ring the Campus Police Office when the red button is pushed. Students are encouraged to put the Campus Police phone number in their cell phone (903) 813-2555.

## False Report or Alarm

It is a violation of Texas Penal Code 42.06 to make a false alarm or report to a public institution of higher education. Students accused of this crime may face charges up to a state jail felony and will be referred through the student discipline process. A full description of the code and subsequent penalty is provided below. Please help us keep our college safe and report any suspicious activities to Campus Police, your Community Coordinator, or any member of the Student Life Office.

### Sec. 42.06. FALSE ALARM OR REPORT.

- (a) A person commits an offense if he knowingly initiates, communicates, or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that he knows is false or baseless and that would ordinarily:
  - (1) cause action by an official or volunteer agency organized to deal with emergencies;
  - (2) place a person in fear of imminent serious bodily injury; or
  - (3) prevent or interrupt the occupation of a building, room, place of assembly, place to which the public has access, or aircraft, automobile, or other mode of conveyance.
  
- (b) An offense under this section is a Class A misdemeanor unless the false report is of an emergency involving a public primary or secondary school, public communications, public transportation, public water, gas, power supply, or other public service in which event the offense is a state jail felony.



## The Annual Crime Statistics - 2023

Austin College provides the following information pursuant to the disclosure requirements of The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and The Violence Against Women Reauthorization Act of 2013.

REPORTED OFFENSES	On Campus			Residential Facilities			Non-Campus			Public Property		
	'20	'21	'22	'20	'21	'22	'20	'21	'22	'20	'21	'22
Murder & Non Negligent Manslaughter												
Negligent Manslaughter												
Rape*	4	2		4	2			1				
Fondling			1			1						
Incest												
Statutory Rape (Underage Victim)												
Robbery												
Aggravated Assault				1								
Burglary	1	1	3	1				1				
Motor Vehicle Thefts (Golf Carts)												
Motor Vehicle Thefts (Actual)												
Arson												
Domestic Violence												
Dating Violence	1			1								
Stalking	4	3		3								

ARRESTS FOR												
Weapons Possession											1	
Drug Abuse Violations	1			1						9	1	
Liquor Law Violations		1		12							1	
Domestic Violence												
Dating Violence												
Stalking												
REFERRALS FOR												
Weapons Possession												
Drug Abuse Violations	9	21	28	9	21	28						
Liquor Law Violations	7	18	14	6	18	14						
Domestic Violence												
Dating Violence												
Stalking												

\*This report includes incidents of sexual assault that meet the criteria for rape that were reported to a counselor whose professional position allows them to maintain confidentiality by law. The persons reporting requested that no further action be taken by the College.

**NOTE:** Non-Campus Offenses are those reported by Sherman Police Department to have happened adjacent to the Austin College Campus, as defined by Clery Guidelines.

## HATE CRIME REPORTING:

A Hate Crime is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender’s bias. Under Clery, reportable bias categories include race, gender, religion, sexual orientation, ethnicity, national origin, disability, and gender identity.

There were no reported Hate Crimes for the years 2020, 2021 or 2022.

## UNFOUNDED CRIMES:

There were no Unfounded Offenses in 2022.

There was one Unfounded Assault with a Deadly Weapon in 2021.

There were no Unfounded Assault with a Deadly Weapon in 2022.

There was one Unfounded Burglary of a Habitation in 2021.

## The Annual Fire Safety Report - 2022

Residential Facility	Total of Intentional Fires in each Building	Fire Incident Number	Cause of Fire	Number of related injuries resulting in treatment at a medical facility	Number of deaths related to a fire	Value of property damage caused by fire
Baker Hall	0	N/A	N/A	N/A	N/A	N/A
Bryan Apts	0	N/A	N/A	N/A	N/A	N/A
Caruth Hall	0	N/A	N/A	N/A	N/A	N/A
Clyce Hall	0	N/A	N/A	N/A	N/A	N/A
Dean Hall	0	N/A	N/A	N/A	N/A	N/A
Jordan House	0	N/A	N/A	N/A	N/A	N/A
Roo Suites	0	N/A	N/A	N/A	N/A	N/A
The South Flats	0	N/A	N/A	N/A	N/A	N/A
The North Flats	0					
The Village	0	N/A	N/A	N/A	N/A	N/A

## FIRE STAFETY PROTECTION LEVEL FOR RESIDENTIAL FACILITIES

Facility	Fire Alarm Monitoring	Partial Sprinkler System	Full Sprinkler System	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans and Placards	Number of Evacuation (Fire) Drills each Calendar Year
Baker Hall	Local			X	X	X	2
Bryan Apts.	None			X	X	X	0
Caruth Hall	Local			X	X	X	2
Clyce Hall	Local			X	X	X	2
Dean Hall	Local			X	X	X	2
Jordan House	Monitored			X	X	X	2
Roo Suites	Monitored		X	X	Community Rm.		2
The South Flats	Monitored		X	X	X		2
The North Flats							
The Village	None	X		X	X		0
							0

## EMERGENCY EVACUATION DRILL DOCUMENTATION

Facility	Type of Drill	Date	Time Started	Time Reset	1 Announced 2 Unannounced
Baker Hall	Evacuation	3/8/2022	6:03 pm	6:10 pm	2
Caruth Hall	Evacuation	3/8/2022	6:53 pm	7:12 pm	2
Clyce Hall	Evacuation	3/8/2022	6:36 pm	6:42 pm	2
Dean Hall	Evacuation	3/8/2022	6:16 pm	6:24 pm	2
Jordan House	Evacuation	3/8/2022	5:50 pm	5:57pm	2
Roo Suites "C"	Evacuation	3/8/2022	5:59 pm	7:16 pm	2
Roo Suites "D"	Evacuation	3/8/2022	5:59 pm	7:16 pm	2
Roo Suites "E"	Evacuation	3/8/2022	5:59 pm	7:16 pm	2
Roo Suites "F"	Evacuation	3/8/2022	5:59 pm	7:16 pm	2
North Flats	Evacuation	3/8/2022	6:47 pm	7:03 pm	2
SouthFlatsAt Brockett Court	Evacuation	3/8/2022	5:56 pm	6:39 pm	2
Bryan Apts. The Village	No Drills No Drills				

Academic Building Evacuation Drills are announced through an e-mail the week of the event, along with an explanation regarding Fire Safety and expected response during a Drill as well as during an actual Fire Emergency. Academic Building Evacuation Drills generally occur near the end of Jan Term or early Spring Semester.

Residential Facility Evacuation Drills are always carried out unannounced.

### **The Family Educational Rights and Privacy Act**

The Family Educational Rights and Privacy Act of 1974 is a federal law which states (a) that a written institutional policy must be established, and (b) that a statement of adopted procedures covering the privacy rights of students must be made available. The law provides that the institution will maintain the confidentiality of student education records.

Austin College accords all the rights under the law to students who are declared independent. With the exceptions noted below, no one outside the institution shall have access, nor be eligible, to receive a student's education records without the written consent of the student, except for personnel within the institution, officials of other institutions providing student's financial aid, accrediting agencies carrying out their accreditation function, persons in compliance with a judicial order, and persons in an emergency in order to protect the health or safety of students or other persons. All these exceptions are permitted under the Act. Within the Austin College community, only those members, individually or collectively, acting in a student's educational interest are allowed access to student education records.

Austin College recognizes that its faculty, administration, clerical, and professional employees, student employees, paraprofessionals, and other persons who manage student records information as having a demonstrated need to know and act in the student's legitimate educational interest. Further, a college official

having a legitimate educational interest does not constitute institutional authorization to transmit, share, or disclose any information to a third party.

In accordance with the provisions of The Family Educational Rights and Privacy Act, Austin College may designate certain information as public or “directory information.” The College, at its discretion, may disclose such information for any purpose without the student’s written consent. Students may withhold the disclosure of such “directory information” by notifying the Office of the Vice President for Student Affairs & Chief Inclusion and Diversity Officer in writing. Austin College hereby designates the following as “public” or “directory information”: student’s name, address, telephone number, e-mail address, date and place of birth, major, minor, mentor, classification, dates of attendance, degrees, honors and awards received, parents’ names and home address, participation in officially recognized activities and sports, height and weight of athletic team members, and digital or related imagery.

The Austin College directory is provided primarily for members of the Austin College community and copies may not be used for outside distribution. Included in the student section of the directory is the Austin College box numbers, residence hall or other local address, e-mail address, mentor, classification, parents’ names, and home address.

Grades are available to students using their Webhopper accounts. Students may request a paper grade report be mailed to their home address through the Registrar’s Office. Students have the right to request their address be changed through the Student Affairs Office. It is the responsibility of the student to maintain a current address at all times. The College maintains the right to notify parents of academic or disciplinary probation and/or suspension and other disciplinary or academic information.

The law provides students the right to inspect and review information contained in their education records, to challenge the contents of their education records, to have a hearing if the outcome of the challenge is unsatisfactory, and to submit explanatory statements for inclusion in their files if they feel the decisions of the hearing panels to be unacceptable. The Vice President for Student Affairs & Chief Inclusion and Diversity Officer and the Registrar coordinate the review procedures for student records, which include the academic records file in the Registrar’s Office, the educational portfolio in the Vice President for Student Affairs & Chief Inclusion and Diversity Officer’s office, and placement records filed in the Career Services office. Students wishing to review their educational records should contact the Vice President for Student Affairs & Chief Inclusion and Diversity Officer or the Registrar.

Students may have copies made of their records with certain exceptions (e.g. a copy of the academic record for which a financial “hold” exists, or a transcript of an original or source document which exists elsewhere). These copies are made at the student’s expense.

Educational records do not include records of instructional, administrative, and educational personnel which are the sole possession of the maker and are not accessible or revealed to any individual except a temporary substitute, records of a law enforcement unit, student health records, employment records, or alumni records. Health records, however, may be reviewed by physicians of the student’s choosing.

Students may not inspect and review the following as outlined by the Act: financial information submitted by their parents; confidential letters and recommendations associated with admission; employment, job placement, or honors to which they have waived their rights of inspection and review; or education records

containing information about more than one student, in which case the institution will permit access only to that part of the record which pertains to the inquiring student. The institution is not required to permit students to inspect and review confidential letters and recommendations placed in their files prior to January 1, 1975, provided those letters were collected under established policies of confidentiality and were used only for the purposes for which they were collected.

Students who believe their education records contain information that is inaccurate or misleading, or is otherwise in violation of their privacy or other rights may discuss their problems informally with the Vice President for Student Affairs & Chief Inclusion and Diversity Officer or the Registrar. If the decisions are in agreement with the student's requests, the appropriate records will be amended. If not, the student will be notified within a reasonable period of time that the records will not be amended, and they will be informed of their right to a formal hearing.

Students who believe that the adjudications of their challenges were unfair or not in keeping with the provisions of the Act may request, in writing, assistance from the President of the College. Further, students who believe their rights have been diminished may file complaints with the Family Policy Compliance Office, U. S. Department of Education, 400 Maryland Avenue, S., W., Washington, DC 20202, concerning the alleged failure to comply with the Act.

### **Missing Student Policy**

Higher Education Act Reauthorization with Higher Education Opportunity Act – 2008 Section 485(j) requires all institutions of Higher Education that participate in any Title IV program and provide on campus housing to students to establish both a Missing Student Notification Policy and Official Notification procedure for handling missing persons that apply to missing students reports of student who reside on campus.

A missing student under the Missing Student Policy is defined as any currently registered student of Austin College who has not been seen by friends, family members, or associates for 24 hours, and whose whereabouts have been questioned and brought to the attention of a member of the College community. The College will initiate an investigation when notified that a student who resides in a campus residence hall is missing with no reasonable explanation for their absence. The investigation will include gathering all information including: discussions with friends and roommate(s), meal and card access use around campus, social networking sites if possible, and/or contacting the student by phone or text.

In the event of a missing student residing on campus, the Vice President for Student Affairs & Chief Inclusion and Diversity Officer or designee will notify the parents/family members regarding the situation. In the event the student does not reside in a College residence hall, the appropriate local police authorities will be notified by Campus Police and an investigation will be initiated.

Each fall new and continuing students will be provided with an opportunity to denote a confidential contact person. If a student has not reached their 18th birthday at the time they are reported missing for 24 hours, the student's custodial parent or guardian will be notified by the College.

Revisions and clarifications will be published as warranted.

## Alcohol & Drugs

### Drug-Free Schools & Communities Act Amendment

In 1989 the federal government passed the Drug-Free Schools and Communities Act Amendment. This legislation requires all colleges and universities who receive federal financial aid to certify to the Secretary of Education that they have “adopted and... implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees...” Austin College satisfies this requirement by offering Drug and Alcohol Education and the Alcohol Education Workshop coordinated by Student Affairs.

The Act also requires annual notification to each student of relevant information regarding student conduct policies, legal sanctions, health risks, counseling and treatment resources, and sanctions for violation of policies. Austin College satisfies this requirement by providing the following information:

### Standards of Conduct

**Alcohol** - The policy concerning alcoholic beverages on the Austin College campus is in direct compliance with the laws of the State of Texas, prohibiting either possession or consumption of alcohol by persons under 21 years of age. A local ordinance prohibiting open containers in public areas is also enforced on-campus. Please see the Alcohol Policy in the student handbook, the Environment, for further details.

**Drugs** - The following actions are violations of the Non-Academic Code of Student Conduct: the illegal transfer and/or improper use, possession, or consumption of any controlled substance (e.g. narcotics, barbiturates, amphetamines, or hallucinogens); the transfer, possession or use of marijuana; the possession of drug paraphernalia, as defined by state law, on College property or at any College sponsored activities; or being present when any one of the above listed activities are taking place.

### Texas Legal Sanctions

**Alcohol** -The Zero Tolerance Bill, Senate Bill 35, went into effect September 1, 1997. This bill strengthened the consequence to minors for underage drinking. Minors who purchase, possess, or consume alcoholic beverages, as well as minors who are publicly intoxicated or misrepresent their age to obtain alcoholic beverages, face the following consequences:

- Class C misdemeanor, punishable by a fine up to \$500
- Alcohol awareness class
- 8 to 40 hours of community service
- 30 to 180 days loss or denial of driver’s license

The Zero Tolerance Bill also makes it illegal for minors to drive while having any detectable amount of alcohol in the minor’s system.

1. The consequences for the minor on the first offense of the Zero Tolerance Bill while driving:

- Class C misdemeanor, punishable by a fine up to \$500
- Attendance at an alcohol awareness class
- 20 to 40 hours of mandatory community service
- 60 days driver's license suspension. The minor would not be eligible for an occupational license for the first 30 days.

2. A second offense increases the consequences to:

- Class C misdemeanor, punishable by a fine up to \$500
- Attendance at an alcohol awareness class at the judge's discretion
- 40 to 60 hours of mandatory community service
- 120 days driver's license suspension. The minor would not be eligible for an occupational license for the first 90 days.

3. A third offense is not eligible for deferred adjudication. The minor's driver's license is suspended for 180 days and an occupational license may not be obtained for the entire suspension period. If the minor is 17 years or older, the fine increases from \$500 to \$2,000, confinement in jail for up to 180 days, or both.

Individuals who give alcohol to minors, or buy alcohol for minors, also face stiffer penalties. The punishment for making alcohol available to a minor has been increased from a class C misdemeanor (fine of \$0 to \$500) to a class B misdemeanor, punishable by a fine up to \$2,000, confinement in jail up to 180 days, or both.

Sale to a minor is a class A misdemeanor, punishable by a fine up to \$4,000, confinement up to a year in jail, or both.

Drugs - Sanctions upon conviction of possession, distribution, or manufacture of controlled substances range from fines to probation to imprisonment. Amounts of fines, terms of probation, or years of imprisonment are generally contingent upon the circumstances and amounts of drugs in possession, sale, or distribution. Additional information on the various legal sanctions pertinent to alcohol and drugs may be obtained from the Student Life Office, located in WCC 201, ext. 2306.

## **Austin College Sanctions**

Alcohol - Possible sanctions for violations include written warning, required attendance at a substance abuse program that focuses on students' behavioral choices, civil and legal responsibilities, as well as the personal and career implications of alcohol and other substance abuse and/or assessment referrals, fines, community service hours, and disciplinary probation. Repeat offenses may result in a combination of the above-mentioned sanctions plus disciplinary probation, parental notification or suspension.

Drugs - Possible sanction for the use, possession or sale of illicit drugs include fines, community service hours, parental notification, assessment referrals, disciplinary probation, suspension, or expulsion.

**NOTE:** Please refer to the student handbook, the Environment, for more specific information about sanctions. College-imposed sanctions are in addition to any legal sanctions taken by local, state, or federal authorities. "A federal or state drug conviction can disqualify a student for federal student aid funds. Convictions only count if they were for an offense that occurred during a period of enrollment for which the



student was receiving Title IV aid. The period of ineligibility for federal student aid funds depends on whether the conviction was for sale or possession and whether the student had previous offenses. For more information, please contact the Office of Financial Aid.”

Additional information on the various legal sanctions pertinent to alcohol and drugs may be obtained from the Student Life Office, located in WCC 201, ext. 2306.

## **Health Risks**

### Alcohol

- Acts as a depressant, affects mood, dulls the senses, impairs coordination, reflexes, memory, and judgment.
- More serious effects may include damage to the liver, kidney, pancreas, and brain.
- It is the leading cause of death among individuals 15-24 years of age.
- On average, heavy drinkers shorten their life span by approximately ten years.

### Marijuana

- Prolonged use and increased tolerance can lead to severe psychological dependence.
- Immediate increase in heart and pulse rate may cause an acute panic/anxiety reaction.
- Impairment of memory, altered sense of time, and inability to concentrate.

### Cocaine

- Increase in heart rate, breathing rate, and body temperature.
- Chronic runny nose and membrane infections.
- Overdose may result in seizures, heart stoppage, coma, or death.

### Opiates

- High likelihood of physical dependence.
- May cause infections of the skin, liver, heart, and lungs.

### Tobacco

- Shortness of breath, nagging cough, and heart difficulties.
- Long-term effects may be emphysema, bronchitis, heart disease, and cancer.

## **Services Available On-Campus**

### Alcohol & Drug Education Programs

The Student Affairs Division offers a number of services and educational programs on-campus to provide help for alcohol and drug problems. These include the following:

**Support Groups:** Campus community members are encouraged to contact Counseling Services if they are interested in starting a support group on-campus or participating in one.

**Assessment:** The Coordinator of Counseling (located in Adams Center) coordinates referrals for students to off-campus services for assessment of alcohol and drug dependencies.

Intervention: Information on intervention techniques is available to College community members through Health, Wellness, and Counseling Services.

At Austin College, we pride ourselves on providing an enlightening college experience, which demands a safe and healthy environment. To that end, we require all Incoming Freshman and transfer students to engage in online training modules focusing on a number of important topics.

Topics Include:

- Sexual Violence Prevention
- Bystander Intervention
- Diversity, Equity, & Inclusion
- Alcohol & Other Drugs including: Marijuana & Stimulants
- Mental Health & Wellness

These modules are innovative, engaging, informative courses designed to promote a healthier, safer, and inclusive campus environment for everyone. Please see below for what modules are required based on student classification, as well as instruction on access & completion.

### **Freshman Training Program**

- Sexual Violence Prevention
- Sexual Harassment & Stalking Refresher
- Alcohol & Other Drugs
- Marijuana: What You Should Know
- Personal Skills for a Diverse Campus
- Prescription Addiction: Stimulants and Depressants
- Mental Health Awareness

### **Program Instructions**

Students should begin by searching their email for a message from Austin College with the subject line of Vector LMS, Higher Education Student Edition Online Training. By following the link in that email, and then entering the username provided, students will log into the training dashboard to complete the required modules. All incoming students are **required** to complete their assigned training program.

For any technical difficulties with the program, please contact the program vendor through the “Contact” button at the bottom of the screen for assistance or email the vendor at [support.education@vectorsolutions.com](mailto:support.education@vectorsolutions.com).

## Disclosure

The training contains sensitive material involving sexual and interpersonal violence. While trigger warnings and resources are provided throughout the program, we understand such programming may be problematic for some viewers. Please contact, Melanie Oelfke at [moelfke@austincollege.edu](mailto:moelfke@austincollege.edu) for confidential support and/or to discuss alternatives.

## Hazing

### Texas State Hazing Law

#### *Texas State Hazing Law*

All Austin College community members are expected to be aware of this law and will be expected to understand how they as individuals and as members of a group are accountable to this law. It was added by Acts 1995, during the 74th Legislative Session, Ch. 260, § 1, and went into full effect May 30, 1995. The statute can be found under Subtitle Safe Schools, Chapter 37. Discipline; Law and Order; Subchapter F. Hazing in the Texas Education Code Definitions:

- **“Educational institution”** includes a public or private: high school; or college, university or other post-secondary educational establishment.
- **“Pledge”** is any person who has been accepted by, is considering an offer of membership from or is in the process of qualifying for membership in an organization.
- **“Pledging”** is any action or activity related to becoming a member of an organization.
- **“Student”** is any person who is registered in or in attendance at an educational institution; or has been accepted for admission at the educational institution where the hazing incident occurs; or intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.
- **"Organization"** means a fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or service, social, or similar group, whose members are primarily students.
- **"Hazing"** means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization if the act:
  - (A) is any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;
  - (B) involves sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other similar activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
  - (C) involves consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance, other than as described by paragraph (E) that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
  - (D) is any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code.

- (E) involves coercing, as defined by Section 1.07, Penal Code, the student to consume:
- i. a drug; or
  - ii. an alcoholic beverage or liquor in an amount that would lead a reasonable person to believe that the student is intoxicated, as defined by Section 49.01, Penal Code.

### ***Personal Hazing Offense***

1. A person commits an offense if the person:
  - A. engages in hazing;
  - B. solicits, encourages, directs, aids or attempts to aid another in engaging in hazing;
  - C. recklessly permits hazing to occur; or
  - D. has first-hand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or first-hand knowledge that a specific hazing incident has occurred, and knowingly fails to report said knowledge in writing to the Director of Student Activities or Associate Vice President for Student Affairs & Dean of Students or other appropriate official of the institution.
2. The offense of failing to report is a Class B misdemeanor punishable by a fine not to exceed \$2,000, confinement in county jail for not more than 180 days or both such fine and confinement.
3. Any other offense under this section which does not cause serious bodily injury to another is a Class B misdemeanor punishable by a fine not to exceed \$2,000, confinement in county jail up to 180 days or both such fine and confinement.
4. Any other offense under this section which causes bodily injury to another is a Class A misdemeanor punishable by a fine up to \$4,000, confinement in county jail not to exceed one year, nor more than one year, or both such fine and confinement.
5. Any other offense under this section which causes death of another is a State Jail Felony punishable by a fine of not to exceed \$10,000, confinement in state jail for not less than 180 days, nor more than two years, or both such fine and confinement.
6. Except when an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same condition imposed on community service probationers by Subdivision (1), Subsection (e) and Subsections (c), (d), (g) and of Section 10A, Article 42.12, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

## ***Organization Hazing Offense***

An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commit or assist in the commission of hazing. An offense under this section is a misdemeanor punishable by a fine of not less than \$5,000, nor more than \$10,000, or if a court finds that the offense caused personal injury, property damage or other loss, the court may sentence the organization to pay a fine of not less than \$5,000, nor more than double the amount lost or expenses incurred because of such injury, damage or loss.

## ***Consent Not a Defense***

It is not a defense to prosecution of an offense under hazing laws that the person against whom the hazing was directed, consented to, or acquiesced, in the hazing activity.

## ***Immunity from Prosecution or Civil Liability Available***

1. In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution.
2. Any person who voluntarily reports a specific hazing incident involving a student in an educational institution to the Associate Vice President of Student Affairs & Dean of Students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the reported hazing incident if the person:
  - A. reports the incident before being contacted by the institution concerning the incident or otherwise being included in the institution's investigation of the incident; and
  - B. as determined by the Associate Vice President of Student Affairs & Dean of Students or other appropriate official of the institution designated by the institution, cooperates in good faith throughout any institutional process regarding the incident.
3. Immunity under Subsection (b) extends to participation in any judicial proceeding resulting from the report.
4. A person is not immune under Subsection (b) if the person:
  - A. reports the person's own act of hazing; or
  - B. reports an incident of hazing in bad faith or with malice

## JP 8 Austin College Discrimination, Harassment, and Retaliation Policy

Approved by SLT: 4/6/2021

### **JP8 - Policy on Discrimination, Harassment, and Retaliation**

#### **Purpose**

It is the policy of Austin College to create an educational and working environment that provides all members of the Austin College community equal access to College activities and programs. In accordance with federal and state law, Austin College prohibits unlawful discrimination, harassment, and retaliation on the basis of age, race, color, religion, sex, sexual orientation, gender, gender identity, national origin, ethnic origin, disability, predisposing genetic information, covered veteran status, and any other basis protected by law.

This policy provides information regarding Austin College's prohibition on non-sexual misconduct: discrimination, harassment, and retaliation. This policy explains how the College will respond once it receives a Report or receives a Formal Complaint of prohibited conduct. The processes described herein are tailored to address unacceptable behavior in a manner consistent with the College's values and status as a private institution of higher education, while meeting the legal obligations of Title VI, Title VII, and other applicable Federal and State laws and regulations. Basic fairness and reasonable expectations are strictly defined by the processes described in this policy. To make a request for a reasonable accommodation, employees must contact the Chief Human Resource Officer. To make a request for a reasonable accommodation, students must contact the Austin College Academic Skills Center

#### **This policy does not create a contract with students, employees, or any other party.**

#### **Jurisdiction**

This policy applies to applicants for admission or employment and the following members of the Austin College community: currently enrolled students and current employees; trustees; third-party consultants, vendors, and contractors when they are doing business with Austin College; individuals who perform services for Austin College such as volunteers; and visitors, guests, and other third parties under circumstances within Austin College's control.

This policy applies to conduct that takes place:

- on the campus or Austin College premises;
- in the context of any Austin College sponsored program, activity, or event, regardless of location;
- through the use of Austin College owned or provided technology resources; or
- off-campus and/or online when the conduct, as determined by the College, is likely to have an adverse effect on Austin College and/or the pursuit of its objectives, members of the Austin College community, or is likely to create, continue, or contribute to a hostile environment as determined by Austin College.

In determining if the conduct is likely to have an adverse effect, Austin College may consider whether:

- the reported action constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- it appears that the respondent may present a danger or threat to the health or safety of self or others as determined by the College;
- the conduct significantly impinges upon, as determined by the College, the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder;
- the conduct is detrimental to the educational interests of Austin College, as determined by the College;
- any other relevant factor(s) as determined by Austin College.

#### **Prohibited Conduct**

##### **Discrimination**

The unlawful differential and adverse treatment of an individual or group based on an individual's or group's age, race, color, religion, sex, sexual

orientation, gender, gender identity, national origin, ethnic origin, disability, predisposing genetic information, covered veteran status, and any other basis protected by law that is objectively offensive and unreasonably interferes with or limits an individual's or group's ability to participate in, or to realize the intended benefits of, an institutional activity, employment, receipt of reasonable accommodations, or other resources. Examples may be when the conduct interferes with:

- A student's or applicant for admission's ability to participate in, access, or benefit from educational programs, services or activities (e.g. admission, academic standing, assignment, campus housing);
- An employee's or applicant for employment's access to employment or conditions and benefits of employment (e.g. hiring, advancement, assignment, training opportunities);
- An authorized volunteer's ability to participate in a volunteer activity; or
- A guest's or visitor's ability to participate in, access, or benefit from Austin College's programs.

### Harassment

Unwelcome conduct based on an individual's or group's age, race, color, religion, sex, sexual orientation, gender, gender identity, national origin, ethnic origin, disability, predisposing genetic information, covered veteran status, and any other basis protected by law, that is objectively offensive and when:

- Submitting to or enduring such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any Austin College program, activity, or benefit;
- Submission to or rejection of such conduct is used, implicitly or explicitly, as the basis for decisions affecting an individual's education (e.g. admission, academic standing, grades, assignment); employment (e.g. hiring, advancement, assignment); or participation in an Austin College program, activity or benefit;
- In the employment context, such conduct is sufficiently severe or pervasive that it unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment, or;
- In the education context, such conduct is sufficiently severe, persistent, or pervasive that the conduct interferes with the student's ability to participate in, or benefit from, educational programs or activities at Austin College.

To determine whether an educational or work environment was objectively offensive, the person appointed by the College will consider the totality of the circumstances, including (1) the frequency of the discriminatory/harassing conduct; (2) its severity; (3) whether it is physically threatening or humiliating, or merely an offensive utterance; and (4) whether it interferes with an employee's work performance or a student's ability to participate in, or benefit from, the educational programs or activities at Austin College. No single factor is determinative. The required level of severity or seriousness may vary inversely with the pervasiveness or frequency of the conduct. A single incident of harassment, if sufficiently severe, or a continuous pattern of less severe incidents of harassment could give rise to a viable formal complaint. A regular pattern of frequent verbal ridicule or insults sustained over time can constitute severe or pervasive harassment sufficient to violate this policy.

Austin College encourages individuals to report any incidents of discrimination and harassment to ensure they receive appropriate supportive measures, as determined by Austin College, and maintain access to their employment and/or education.

### Retaliation

Austin College forbids retaliation against an individual as a result of filing a complaint of discrimination or harassment or participating in an investigation of a complaint of discrimination or harassment. No hardship, loss, benefit, or penalty may be imposed on an employee, student, or third party in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Any person who is found to have violated this aspect of the policy by the person appointed by the College may be subject to immediate emergency removal or administrative leave and disciplinary action up to and including suspension, expulsion, termination of employment, or any other action deemed appropriate by the person appointed by the College to resolve retaliation.

### Reports and Formal Complaints

**Reports** are communications to Austin College that behavior potentially violating a policy has occurred. A report is not a request for an investigation or adjudication into these behaviors. Investigations and adjudications are triggered by the filing of a Formal Complaint (see Formal Complaints below).

Reports of discrimination, harassment, or retaliation must be made to the Chief Human Resource Officer:

- Melanie Oelfke, 900 N. Grand Ave., Suite 6I Sherman, TX 75090.
- Phone: (903) 813-2433 and Email: moelfke@austincollege.edu
- Reports may also be submitted to the Chief Human Resource Officer through the Campus Conduct Hotline (CCH) (866) 943-5787, or the Online Campus Conduct Reporting tool, both of which are linked at the bottom of every Austin College webpage via “Campus Conduct Hotline.”
- If a report is made to anyone else, the reporter risks the possibility that it will not come to the attention of the appropriate College authorities and may, therefore, not be acted upon officially by an Austin College employee with authority to redress the allegations (Chief of HR).

Any person may make a report of discrimination, harassment, or retaliation to the Chief Human Resource Officer. Austin College will likely be limited in its response when reports are made by, or against, individuals that are not under Austin College’s control. All persons have the right to contact law enforcement or other resources outside of Austin College’s process.

Once reported to the Chief Human Resource Officer, the College may take any appropriate immediate action, as determined by the College, including Administrative Leave, Emergency Removal, and Supportive Measures. Supportive measures are immediate non-disciplinary efforts that should prohibit any further discriminatory or harassing action and may redress the alleged actions without having to go through the Formal Complaint Process. Supportive Measures are available as appropriate with or without the filing of a Formal Complaint.

Supportive Measures may be: 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; 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; taking corrective action; Other measures determined by the College to be appropriate.

Individuals receiving a No Contact Order are not entitled to an explanation of the alleged conduct, unless and until there is a Formal Complaint allowed to proceed by the person appointed by the College to make that determination.

**Formal Complaints** of discrimination or harassment are official requests that Austin College conduct an investigation into the alleged misconduct, make determinations regarding responsibility for an alleged policy violation, and implement appropriate sanctions against the respondent(s) if found responsible using a preponderance of the evidence standard. Formal Complaints must be filed with the Chief Human Resource Officer. (contact information above) The Formal Complaint should contain all known details about the allegations of misconduct including: date and time, location, parties, what happened, witnesses, and any other information relevant to the complaint. The Chief Human Resource Officer or their designee may ask for additional details after receiving the initial Formal Complaint.

Formal Complaints of Faculty behavior will be forwarded to the Vice President for Academic Affairs and will proceed under the process articulated in JP4 Judicial Guidelines and Procedures for the Faculty. Formal Complaints of Student behavior will be forwarded to the Vice President for Student Affairs & Chief Inclusion and Diversity Officer or their designee and will proceed under this policy. All other Formal Complaints will be handled by the Chief Human Resource Officer and will proceed under this policy. A Formal Complaint may be filed by the Chief Human Resource Officer on behalf of another, when determined appropriate by the College. A person who reports allegations of discrimination or harassment but declines to file a Formal Complaint will have limited participation in College initiated resolution process. In this instance, the reporter will not be entitled to knowledge of the outcome or ability to appeal the dismissal of a formal complaint or the determination regarding responsibility.

**Formal Complaint Process** - After the person appointed by the College determines that the Formal Complaint may proceed (explained below) all parties are entitled to: notice of the allegations, an opportunity to present evidence and witnesses to an investigator, and an opportunity to be heard by the decision maker before a final decision is made. After an investigator completes the investigative report, it will be forwarded to the Decision Maker. The Decision Maker may then schedule separate meetings with the parties or witnesses and ask follow-up questions of both parties and witnesses, including those that challenge credibility. The Decision Maker may schedule additional meetings with parties or witnesses as determined appropriate by the Decision Maker. There will be no cross examination conducted by parties or their advisors. Both parties are allowed to have a Party Advisor who may be an attorney. However, Party Advisors may not advocate on behalf of the person they are advising during meetings, investigations, or hearings, nor may they interfere with the process, as determined by Austin College. The Decision Maker may be the Chief Human Resource Officer, the Vice President for Student Affairs & Chief Inclusion and Diversity Officer, the Vice President for Academic Affairs, or their assigned designee(s). Individuals are assumed not responsible unless and until they are found responsible using the preponderance of the evidence standard (more likely than not) under this policy. Sanctions may only be implemented after a respondent is found responsible for a policy violation using the procedure listed above.



Sanctions may be: Expulsion, Suspension, Probation, Educational Sanctions, Revocation or withholding of admission or degree pending completion of other sanctions, No Contact Orders, Time and place restrictions or bans, Housing restrictions, Extension of requirements used as supportive 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 person(s) appointed by the College.

**Formal Complaint Requirements** - A Formal Complaint may only be submitted by: 1) the individual who is alleged to be the victim of conduct that could constitute discrimination or harassment, or 2) the Chief Human Resource Officer when they determine it is appropriate to do so. The Formal Complaint should contain all known details about the allegations of misconduct including: date and time, location, parties, what happened, witnesses, and any other information relevant to the complaint. At the time of filing a formal complaint, the complainant must be a current student or current employee. A formal complaint may not be filed by a student or employee on behalf of another person who is alleged to be a victim of discrimination or harassment, nor may a Formal Complaint be filed anonymously. The complainant cannot remain anonymous or prevent the complainant's identity from being disclosed to the respondent via the written notice of allegation.

The Chief Human Resource Officer or their designee must dismiss the Formal Complaint if the conduct alleged in the Formal Complaint: 1) would not constitute Prohibited Conduct (as defined in this policy) even if proved, 2) did not occur under the jurisdiction requirements listed in this policy. The Formal Complaint must also be dismissed if the complaint: 3) was not filed by a named student or employee, or 4) the respondent is no longer enrolled at or employed by Austin College, or under the College's jurisdiction.

At any point during the process the Chief Human Resource Officer or their designee may dismiss the complaint if: When a formal complaint contains allegations that are precisely the same as allegations the College is, or has already investigated and adjudicated; When the length of time elapsed between an incident of alleged discrimination or harassment, and the filing of a formal complaint, prevent Austin College from collecting enough evidence to reach a determination as determined by Austin College; and When the complainant has stopped participating in the investigation.

**Determinations Regarding Responsibility** - After all relevant evidence has been collected, reviewed, and responded to by the parties, the Decision Maker will review the evidence and meet with the parties/witnesses individually as needed to ask relevant follow up questions, including those that question credibility as appropriate. The determination regarding responsibility will then be made using the preponderance of the evidence standard (more likely than not). The Decision Maker appointed by the College will issue a written determination regarding responsibility with the following sections:

- (A) Identification of the allegations;
- (B) Findings of fact supporting the determination;
- (C) Conclusions regarding the application of Austin College's policy to the facts;
- (D) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and any disciplinary sanctions Austin College imposes on the respondent.

**Appeals** - Once written notification of the dismissal of a Formal Complaint or any allegations therein has been issued, both parties have the right to submit an appeal to the Chief Human Resource Officer.

Once written notification of the determination regarding responsibility has been issued, both parties have the right to submit an appeal to the Chief Human Resource Officer.

Appeals may only be submitted by a party to the action and solely upon the following four grounds:

- 1) Procedural irregularity that affected the outcome of the matter; 2) New material evidence that was not reasonably available at the time the Investigative Report was published or dismissal of allegations was made, that could affect the outcome of the matter; 3) Conflict of interest/bias - The 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; 4) Sanction is disproportionate to the violation.

Appeals must be submitted in writing to the Chief Human Resource Officer within seven days of receiving the notice of dismissal or decision regarding responsibility. If the appeal is accepted, any information that is submitted will be made available to the other party for review. The other participant may submit a rebuttal of the appeal in writing to the Chief Human Resource Officer within 7 days of receiving the appeal information. Upon receiving an appeal and rebuttal, if one is submitted, the Chief Human Resource Officer will refer it to the appropriate appeal agent for review and final decision making.

- Appeals addressing procedural Irregularities in the investigation and resolution process in a way that substantially altered the outcomes of the case shall be referred to an alternate investigator(s) and or decision maker(s) for review and decision making.
- Appeals providing substantive new evidence, which is information that was not reasonably available before or during the investigation or dismissal was made and that could affect the outcome of the matter shall be referred to the investigator(s) and or decision maker(s) for consideration and determination of a finding based on the new information.
- Appeals alleging a Conflict of Interest/Bias by the Decision Maker for or against complainants or respondents generally, or the individual

complainant or respondent, that affected the outcome of the matter shall be referred to an alternate investigator(s) and or Decision Maker(s) for review and decision making.

- Appeals alleging that the sanction is disproportionate to the violation shall be assigned to the following appellate agents for review and decision making:
  - a) The Faculty Hearing Committee or designee if the responding participant is a faculty member,
  - b) The Vice President for Business Affairs or designee if the responding participant is a staff member,
  - c) The Vice President for Student Affairs or designee if the responding participant is a student, or
  - d) An appropriate appeals agent-as determined by the Title IX Coordinator if the responding participant is not a member of the groups listed.

Austin College will seek to complete the appeals process in a reasonable amount of time as determined by the College unless Austin College determines in its discretion that more time is required. Austin College will provide periodic updates as it deems appropriate. The appropriate appeals agent will issue a written decision describing the result of the appeal and the rationale for the result. The Chief Human Resource Officer or designee will notify the participants simultaneously, to the extent possible, in writing of the appeal agent's decision. Finding and sanction decisions made by the appeal agent are final.

**Informal Resolution** - When determined appropriate by the Chief Human Resource Officer, the informal resolution process may be used to resolve allegations by taking immediate and corrective action to stop the conduct, address its effects, and prevent recurrence without implementing a formal resolution process. An informal resolution process may also include a remedies-based process (mediation), which allows both participants to come to a mutual agreement regarding the resolution of the complaint. Informal resolutions may reach agreements between the parties, facilitated by the Chief Human Resource Officer or their designee, that include continued supportive measures but that also could include disciplinary measures, while providing finality for both parties in terms of resolving allegations raised in a formal complaint of discrimination, harassment, or retaliation.

The informal resolution process may include the range of supportive measures described above, as well as targeted or broad-based training and educational programming for relevant individuals and groups or any other remedy that will achieve the goals of the College's policy. For example, both participants may agree that the permanent application of supportive measures (e.g. no-contact order) may be sufficient to resolve the complaint. This option is available if the College determines that such a process would be appropriate, and all participants agree to participate.

To enter into the Informal Resolution process, both parties must provide voluntary written consent to the College after receiving and reviewing the notice of allegation and the rules regarding the Informal Resolution process. At any time prior to the final Informal Resolution agreement either party may withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

### **Additional Provisions**

**Academic Freedom** - Austin College is committed to upholding the tradition of academic freedom. This policy is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so. The proper exercise of academic freedom does not include harassment or discrimination as defined by this policy.

**Administrative Leave** - The Process by which Austin College places a non-student employee respondent on administrative leave during the pendency of a grievance process. This process may be used when determined appropriate by the Chief Human Resource Officer.

**Emergency Removal** - The Process by which Austin College may remove a respondent from the College's education program or activity on an emergency basis, provided that the Chief Human Resource Officer or their designee undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student, employee, or other individual arising from the allegations of discrimination, harassment, or retaliation justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. Austin College retains discretion on a case-by-case basis in determining if and when it is appropriate to contact a student's parents when the emergency removal tool is used.

**Parental Notification** – Austin College retains discretion on a case-by-case basis in determining if, and when, it will be appropriate to contact a student's parent(s) or guardian(s). Students are encouraged to inform their parent(s) or guardian(s) if they are involved in a disciplinary action and should refer them to the Chief Human Resource Officer or their designee and this policy for questions.

**Relevant Evidence** - The Formal Resolution Complaint Process will provide an objective evaluation of all relevant evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. Relevant Evidence is defined as evidence:

- Tending logically to prove or disprove a fact of consequence or to make the fact more or less probable and thereby aiding the trier of fact in making a decision. What does this mean?
- Having a significant and demonstrable bearing on the matter at hand.

**Extensions of Time** - Any party who wishes to request a temporary delay in the grievance procedure or the limited extension of time frames must submit a written request to the Chief Human Resource Officer or their designee that details why that party is requesting the delay/extension. The

party filing the request must demonstrate good cause for the delay/extension to be granted. The Chief Human Resource Officer or their designee will make a determination regarding the request for delay/extension. If the request is denied, the requesting party will receive notice of the decision and the reasons why the request was denied. If the request is granted, both parties will receive written notice of the delay/extension and the reasons for it. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. Delays caused solely by administrative needs would be insufficient to satisfy this standard.

Even where good cause exists, Austin College may only delay the grievance process on a temporary basis for a limited time. A respondent (or other party, advisor, or witness) would not be able to indefinitely delay a proceeding by refusing to cooperate. The grievance process can proceed to conclusion even in the absence of a party or witness.

**Responsibility to Cooperate** - Process Participants under Austin College's control must cooperate in good faith with Austin College investigations. Refusal to cooperate in good faith with an investigation may result in disciplinary action. An employee's or student's refusal to cooperate with processes described in this policy will be reported to the Chief Human Resource Officer or their designee who may implement disciplinary action against those unwilling to cooperate.

**Responsibility of Student Organizations** - Whenever an alleged violation of Title IX is brought to the attention of a student organization, student organization leadership and/or members should refer the affected member(s) to the Title IX Office on campus for reporting and/or resolution. Student Organizations should take no action on said member(s) during the Title IX process. If a no contact order is put in place by the College, the College will work with said member(s) about how to manage membership in the student organization. Student organizations should not interfere in the investigation by placing any member(s) on inactive status or asking said member(s) to refrain from being involved in the organization's activities. "No person or organization may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part." (Section Retaliation 1.23 Austin College Sex and Gender Based Misconduct Policy)

Student organizations are encouraged to speak to the Dean of Students and/or Director of Student Activities if they have questions regarding these expectations.

**Responsible Employees** - A college employee who has the authority to redress misconduct under this policy. The designated Responsible Employees under this policy is the Chief Human Resource Officer. A responsible employee is not a person who has, or appears to have, the obligation to report instances of discrimination, harassment, or retaliation.

\*Austin College employees are not designated mandatory reporters under this policy. While employees may forward learned of allegations of discrimination or harassment to the Chief Human Resource Officer under their own discretion, they are not under any legal or college mandated obligation to do so (Unless required by any federal or state law or regulations). Individuals seeking supportive measures or an official response by the College must report to the Chief Human Resource Officer.\*

**Party Advisors** - Advisors who step outside their role, as determined by the College, may be dismissed from the process by the applicable Decision Maker. Advisors may be required to sign paperwork acknowledging their role and agreement to the policies of Austin College before they participate in a process.

Parties must give Austin College notice of their party advisor before any meeting, interview, hearing or other occasion where the party advisor will be present.

**Nature of Policy** - Austin College reserves the right to modify this policy at any time without notice.

Updated April 4, 2022

## Austin College Sexual Misconduct and Discrimination Policy

This policy, updated August 1, 2024, supersedes any policies previously adopted and/or published in Austin College handbooks, in the Austin College Operational Guide, or on the Austin College website.

Austin College reserves the right to modify this policy at any time, with or without notice.

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## **1.0 INTRODUCTION**

Congress passed the Higher Education Amendments in 1972, and included within them was Title IX, which states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...” Since 1972, additional federal and Texas state laws and regulations have been adopted to offer further protection to those in higher education (i.e., students, employees, and third parties) from discrimination and harassment based on a person’s sex or gender.

Austin College is committed to establishing an environment free of such discrimination and prohibits such acts. This policy has been updated to substantially comply with the Department of Education’s August 14, 2020 Title IX Regulations, and Texas laws H.B. 1735, S.B. 212, and H.B. 449.

Hence, Austin College (the College) will respond in a clearly reasonable way (as defined by Sections 106.44 and 106.45 of the New Title IX Regulations) to Reports and Formal Complaints containing information about actionable sex-and gender-based discrimination occurring in the College’s educational programs or activities in the United States, of which the Title IX Office is given Actual Notice of. These responses are intended to stop prohibited conduct, prevent its recurrence, and address any lingering impact on both participants and the campus community. Any retaliation against, or intimidation of those involved in a misconduct incident, be it those bringing a complaint, those accused, or those participating in the resolution process, is prohibited and will not be tolerated by the College.

Austin College supports persons involved in this process through available support services. The College encourages all parties in Austin College’s Community who wish to receive confidential support services regarding sex- and gender-based discrimination to seek assistance from the Title IX Coordinator, staff in counseling services or health services, the office of the College chaplain, the Grayson County Crisis Center, or to seek other medical attention. Additionally, employees needing support services may seek assistance from the Human Resource Department or the Employee Assistance Program. Nothing in this policy prohibits individuals from reporting crimes to Law Enforcement.

Questions regarding Title IX may also be referred to the United States Department of Education’s Office for Civil Rights, Dallas Office.

U.S. Department of Education 1999 Bryan Street, Suite 1620 Dallas, TX  
75201 Telephone: 214-661-9600  
FAX: 214-661-9687; TTD: 877-521-2172  
Email: [OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov)

## **0.2 Notice of Non-Discrimination**

Austin College is committed to equal opportunity and does not discriminate on the basis of age, color, disability, national origin, race, religion, sex, gender, gender identity, sexual orientation, citizenship status, genetic information, status as a veteran, or any other characteristic that is protected by applicable state or federal law in its operations, employment opportunities, educational programs, and related activities.

Austin College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment. Austin College prohibits discrimination and harassment against students based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient. Austin College is committed to providing individuals with disabilities equal access to the process outlined in this policy.

The Chief Human Resource Officer has been designated by the College as the appropriate person with authority to redress allegations of non-sexual misconduct: discrimination, harassment, and retaliation. All reports or formal complaints must be made to the Chief Human Resource Officer in order for Austin College to have actual notice of the issue and respond in a clearly reasonable way, including the offer of support services.

Reports of discrimination, harassment, or retaliation or general inquiries about Title IX may be referred to Austin College's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights (<https://ocrcas.ed.gov/contact-ocr>) or both. Austin College's Title IX Coordinator is:

Melanie Oelfke, Chief Human Resource Officer and Title IX Coordinator 900 N  
Grand Ave., Suite 6I, Sherman, TX 75090  
(Administration Building, Ste 210)  
Phone: 903-813-2433  
Email: [moelfke@austincollege.edu](mailto:moelfke@austincollege.edu)

Austin College's nondiscrimination policy and grievance procedures can be located under the Title IX Office link at the bottom of every page of our website <https://www.austincollege.edu>. Reports may be submitted to the Chief Human Resource Officer and Title IX Coordinator through the Campus Conduct Hotline (CCH) (866.943.5787), or the Online Campus Conduct Reporting tool, both of which are linked at the bottom of every Austin College webpage via "Campus Conduct Hotline."

If a report is made to anyone else, the reporter risks the possibility that it will not come to the attention of the appropriate College authorities and may, therefore, not be acted upon officially by an Austin College employee with authority to redress the allegations.

Any person may make a report of discrimination, harassment, or retaliation to the Chief Human Resource Officer. Austin College will likely be limited in its response when reports are made by, or against, individuals that are not under Austin College's control. All persons have the right to contact law enforcement or other resources outside of Austin College's process.

Once reported to the Chief Human Resource Officer, the College may take any appropriate immediate action, as determined by the College, including Administrative Leave, Emergency Removal, and Supportive Measures.

## **0.3 Title IX (Federal) and Non-Title IX (Texas) Compliance**

In May of 2020 the United States Department of Education issued new regulations that substantially updated how schools receiving federal funds must respond to allegations of Sexual Misconduct. These rules mandate specific definitions and formalize investigatory and adjudicatory processes which Austin College is required to implement by August 14, 2020. The rules have been updated effective April 2024 for August 1, 2024 implementation. Several of the new Federal provisions may conflict with or go beyond the requirements imposed on Austin College by the Texas legislature.

Austin College has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations. These grievance procedures address complaints of sex-based harassment that involve a student as the complainant or respondent party.

Section 106.45(b)(3)(i) (“The Recipient must investigate the allegations in a formal complaint. If the conduct alleged by the complainant would not constitute sexual harassment as defined in § 106.30 even if proved, did not occur in the Recipient’s education program or activity, or did not occur against a person in the United States, then the Recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX or this part; such a dismissal does not preclude action under another provision of the Recipient code of conduct.”)

In the event of a conflict between Title IX and Texas State law or FERPA, Title IX final regulations do not override any legal right of a parent, guardian, or other authorized legal representative to act on behalf of a complainant, respondent, or other person.

Given this discretion, Austin College remains committed to responding to all allegations of sexual misconduct made by members of Austin College’s community and has incorporated a Non-Title IX procedure into this Sexual Misconduct policy to address allegations that fall outside of Title IX.

If an allegation in a Formal Complaint of Sexual Misconduct is dismissed under the Title IX Process because it occurred outside of either the United States or Austin College’s Educational Program or Activities, or it does not meet the Title IX Harassment definition, then the complainant may submit the Formal Complaint to the Non-Title IX process. All Formal Complaints alleging sexual misconduct must first go through the Title IX Process, before it goes through the Non-Title IX Process.

The State of Texas requires that Austin College’s governing board approve its Sexual Misconduct policy. (H.B. 1735 Section 51.282(a)(2)) As compliance with both the Federal Regulations and the Texas Laws are non-negotiable, this sexual misconduct policy, which incorporates both Federal and State mandates, has been approved by Austin College’s Governing Board for responding to Sexual Misconduct.

Date of Board Approval: Nov. 7, 2020, reaffirmed with updates (pending)

## **0.4 Record Keeping**

- 1) Austin College must maintain for a period of seven years records of
  - (A) Each sexual misconduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to Austin College’s education program or activity;
  - (B) Any appeal and the result therefrom;
  - (C) Any informal resolution and the result therefrom; and



- (D) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Austin College must make these training materials publicly available upon request.

**For each response required under Title IX, Austin College must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, Austin College must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to Austin College's education program or activity. If Austin College does not provide a complainant with supportive measures, then Austin College must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit Austin College in the future from providing additional explanations or detailing additional measures taken.**

## **0.5 Mandatory Training**

- 1) All individuals designated by Austin College as a Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process, will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- 2) Austin College ensures that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in this policy, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- 3) Austin College ensures that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in this policy.
- 4) Austin College ensures that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- 5) Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, do not rely on sex stereotypes and promote impartial investigations and adjudications of formal complaints of sexual harassment.

## **0.6 Requesting an Accommodation**

***Requests for accommodation (ADA, Section 504; Pregnancy, §106.40(b)(3)(ii)) should be made to the Title IX Coordinator. The Coordinator will work with the appropriate college authority to determine what reasonable accommodations may be provided. Students seeking academic accommodations should review their class syllabus (class schedule, project due dates, exam dates) and plan appropriate accommodations in advance with the Title IX Coordinator and their professors. Students seeking to miss regularly scheduled classes or alter assignment due dates based on required medical appointments are encouraged to contact the Title IX Office as soon as possible.***

Accommodations for pregnant and parenting students will be treated the same as a temporary disability, meaning students may have to provide a doctor's note that explains why a certain accommodation is medically necessary. Accommodations for pregnant or parenting students may be: a larger desk, frequent trips to the bathroom during class, eating and drinking in class, rides around campus, change in assignment due dates, excused absences, or other appropriate measures as determined by a doctor and Austin College.

Individuals that believe they need a translator or Language Assistance throughout the Title IX or Non-Title IX

process may contact the Title IX Coordinator

## **0.7 Reasonably Prompt Time Frames**

0.7(a) Investigation - The investigation of a Formal Complaint will be concluded within 90 business days of the filing of a Formal Complaint. Additional time may be required if the Investigation takes place during and over college breaks (Winter, Spring, Summer), the number of witnesses are excessive or difficult to interview, or the investigation is outsourced to a third-party, independent consultant. In cases where the investigation exceeds 90 days for reasons listed above or other unforeseen delays, communication of this fact and status of the investigation will be provided to both parties.

0.7(b) Grievance Process, including Appeal – The entire grievance process outlined in this policy, including any appeal, will generally be completed in no more than 165 business days. This time frame is subject to change.

0.7(c) Appeal – 21 Business days

## **0.8 Requesting an Extension of Time**

Any party who wishes to request a temporary delay in the grievance procedure or the limited extension of time frames must submit a written request to the Title IX Coordinator that details why that party is requesting the delay/extension. The party filing the request must demonstrate good cause for the delay/extension to be granted.

The Title IX Coordinator will decide to approve or deny the delay/extension request. If the request is denied, the requesting party will receive notice of the decision and the reasons why the request was rejected. If the request is granted, both parties will receive written notice of the delay/extension and the reasons for it.

Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. Delays caused solely by administrative needs, for example, would be insufficient to satisfy this standard.

Even where good cause exists, Austin College may only delay the grievance process on a temporary basis for a limited time. A respondent (or other party, advisor, or witness) would not be able to indefinitely delay a Title IX proceeding by refusing to cooperate.

The grievance process can proceed to conclusion even in the absence of a party or witness.

## **1.1 SEXUAL MISCONDUCT POLICY**

The Federal mandates established by Title IX and the Campus SaVE Act reaffirm that students, employees, and third parties have the right to be free from discrimination based on their gender, sex, sexual orientation, and gender appearance/expression. Sex discrimination includes discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. All procedures regarding such incidences can be found herein.

## **1.11 Scope of Title IX Policy**

This policy applies to Austin College students, employees, and third-parties participating in Austin College’s education program or activity as defined in 34 C.F.R. § 106.44(a): Locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College.

## **1.12 Scope of Non-Title IX Policy**

This policy applies to Austin College students, employees, and third parties both on and off campus, as well as in cyberspace. Off-campus coverage of this policy includes incidents that occur within the College’s operations including incidents that occur outside the United States such as employee-led trips, study-abroad sites, internship sites, service- learning sites, college-owned properties and when the conduct substantially affects a person’s education or employment with the College or poses a risk of harm to members of the Austin College community.

## **1.13 Grievance Procedures**

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that Austin College investigate and make a determination about alleged discrimination under Title IX

- 1) A “complainant,” which includes:
  - (a) a student or employee of Austin College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - (b) a person other than a student or employee of Austin College who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Austin College’s education program or activity;
- 2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- 3) Austin College’s Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- (a) Any student or employee Austin College; or
- (b) Any person other than a student or employee who was participating or attempting to participate in Austin College’s education program or activity at the time of the alleged sex discrimination.

Austin College may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances as long as said consolidation does not violate the Family Educational Rights and Privacy Act (FERPA). When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Austin College will treat complainants and respondents equitably. Austin College requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or

respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decisionmaker may be the same person as the Title IX Coordinator, investigator, or Hearing Officer. Austin College presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

## **1.2 PROHIBITED MISCONDUCT DEFINED**

Conduct that is prohibited and encompassed by this policy includes sexual harassment, sex and gender discrimination, sexual assault, rape, stalking, and relationship abuse (including domestic and dating violence). Sex discrimination includes discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. These acts are also a violation of federal and state law (including Title IX, Title VII, the Campus SaVE Act, and the Violence Against Women Act). These acts are prohibited in any sex or gender configuration (i.e., between the same or differing genders), regardless of sex and gender identity, or in any power configuration. Individuals found responsible for violating these policies will face sanctions that are commensurate with the severity of the policy violation, ranging from warning to expulsion or termination of employment.

Many of the behaviors outlined in this policy may be felony or misdemeanor crimes in addition to violations of this policy. Victims are encouraged to explore legal options for prosecution if they desire. Austin College will conduct its own investigation and resolution process for a Formal Complaint, regardless of whether the alleged misconduct is also being pursued through the criminal justice system. Acts of harassment or sex- and gender-based discrimination may vary in severity and include the following categories listed in sections 1.21 – 1.29.

## TITLE IX SEXUAL MISCONDUCT POLICY VIOLATION

### 1.21 Title IX Sexual Misconduct Policy Violations

All allegations of prohibited misconduct defined under section 1.21 are subject to the resolutions processes articulated by the 2020 Title IX Regulations codified in this policy in sections 1.7 or 1.8(a).

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

#### 1.21.1 *QUID PRO QUO, SEXUAL HARASSMENT*

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.

#### 1.21.2 *Hostile Environment, Sexual Harassment*

A Hostile Environment is unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity.

#### 1.21.3 *Clery/VAWA Offenses, Sexual Harassment* 1.21.3(A) - SEXUAL

##### ASSAULT

Sexual assault means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program:

- (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.

(Citation: 20 U.S.C. 1092(f)(6)(A)(v), Defined at 34 CFR 668.46)

Sexual assault can be committed by persons of the same sex as well as those of different sex.

Students, employees, and third parties should understand that forced or unwanted sexual intercourse or sexual contact (as defined above), whether it involves a stranger or an acquaintance, is sexual assault. The severity of the violation is the same whether the responding participant is a stranger or known to the reporting participant.

### 1.21.3(b) - 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.

### 1.21.3(c) - 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))

### 1.21.3(d) - Stalking

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. (Citation: 42 U.S.C. 12291(a)(30))

For guidance purposes regarding this definition:

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.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. (Citation: 34 CFR 668.46)

Stalking can occur between strangers, individuals who know each other, or individuals who are or were previously in a relationship. Stalking behaviors may include unwanted following or watching, unwelcome gifts, or communications in person, in writing, or through the use of technology. It also includes accessing personal information to monitor a person's activity.

## **NON-TITLE IX SEXUAL MISCONDUCT POLICY VIOLATIONS**

Sections 1.22 – 1.29 define misconduct involving non-Title IX Sexual Harassment and violations of college policy that do not fall under the 2020 or 2024 Title IX Regulations definition of Sexual Harassment. Allegations of these violations will be handled through the non-Title IX resolution process articulated in sections 1.7 or 1.8(b).

## **1.22 Non-Title IX Sexual Harassment**

Non-Title IX 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.

Examples of sexual harassment may be: repeated unwelcomed sexual conduct or advances that may take the form of inappropriate sexual or suggestive comments, sounds or jokes; unsolicited touching that falls outside of the Sexual Assault definition.

## 1.23 Retaliation

- 1) No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation.
- 2) Austin College will keep private the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, [20 U.S.C. 1232](#), or FERPA regulations, [34 CFR part 99](#), or as required by law, or to carry out the purposes of [34 CFR part 106](#), including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination.
- 3) The exercise of rights protected under the First Amendment does not constitute retaliation prohibited.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance under this part does not constitute retaliation prohibited, provided however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

## 1.24 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 fall under either the Title IX Non-Sexual Assault Sexual Harassment standard or the Non-Title IX Sexual Harassment standard. There are many degrees and types of sexual exploitation. Examples of sexual exploitation are described below.

- Photographing or taping someone (via audio or video) involved in sexual activity, or in a state of undress without their consent or knowledge constitutes prohibited sexual exploitation (even if a person consented to the sexual activity or the state of undress, photographing or taping someone without their knowledge goes beyond the boundaries of that consent).
- Disseminating photographs or video/audio of someone involved in sexual activity or in a state of undress without their knowledge or consent constitutes a separate and additional act prohibited by this policy.
- Voyeurism, which is the act of observing a person involved in sexual contact/activity or in a state of undress without their

knowledge or consent, is prohibited by this policy.

- Inducing intoxication/incapacitation for the purpose of sexual activity (i.e., offering drugs, alcohol, or other substances to a person with or without their knowledge with the intent to impair their ability to withhold consent or their ability to knowingly consent to sexual activity) is a violation of this policy. This type of conduct constitutes sexual exploitation regardless of whether any sexual activity takes place.



## **1.25 Intentional Presentation of False Information**

Participants in both the Title IX and Non-Title IX 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 may 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.

## **1.26 Violation of Supportive Measures**

An employee's or student's failure to comply with the terms of Supportive Measures directives is a violation of Austin College policy.

## **1.27 Employee Failure to Report or False Report**

It is a violation of Texas Law and Austin College policy for an employee who is required to make a report fail to 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 and 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.

## **1.28 Interference with Processes under this Policy**

Any person who interferes with the Grievance Processes under this Policy is subject to disciplinary action up to and including dismissal or separation from the

College. Interference with a Grievance Process may include, but is not limited to:

- Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- Removing, destroying, withholding, or altering documentation relevant to the Grievance Process; or

## **1.29 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.

There are exceptional circumstances in which the spouse or partner of a faculty or staff member is a student at the College. This policy does not apply in such circumstances. The Dean of the Faculty or the appropriate vice president is the administrative officer who determines whether a circumstance is

exceptional.

### **1.3 PROCESS DEFINITIONS AND PROVISIONS**

#### **1.31 Academic Freedom**

Austin College is committed to principles of free speech and upholding the tradition of academic freedom. This policy is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so. The proper exercise of academic freedom does not include harassment or discrimination as defined by this policy.

#### **1.32 Administrative Leave**

The Process by which Austin College places a non-student employee respondent on administrative leave during the pendency of a grievance process. Administrative Leave can be paid leave or unpaid leave as determined appropriate by Austin College.

#### **1.33 Confidentiality**

Because breaches of confidentiality compromise the ability of Austin College to investigate and resolve claims of harassment and discrimination, the Title IX Coordinator will attempt to protect the confidentiality of harassment and discrimination proceedings to the extent reasonably possible. On campus, complete confidentiality cannot be guaranteed. Limited Confidentiality may be available when a concern is shared with a College-designated limited reporter employee (defined in Section 1.42.3) and when the concern does not involve a continuing threat of serious harm to self or others as determined by the Title IX Coordinator.

#### **1.34 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. The existence of a dating relationship, or prior intimate relationships, does not imply consent, and 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.

##### **1.34.1 *When Consent cannot be Obtained***

Consent cannot be obtained when any of the following circumstances are used:

- (a) Physical violence, meaning that a person is exerting control over another person through the use of physical force. Examples of physical force include hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.
- (b) Threats, meaning words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples include threats to harm a person physically, to reveal private information to harm a person's reputation, or to cause a person academic or economic harm.

- (c) Intimidation, meaning an implied threat that menaces or causes reasonable fear in another person. A person's size alone does not constitute intimidation; however, a person's size may be used in a way that constitutes intimidation (e.g. blocking access to an exit).
- (d) 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.
- (e) Consent is not present when an individual is 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. Being impaired by alcohol or other drugs is not a defense to any violation of this policy, including failure to obtain consent. In evaluating consent in cases of alleged incapacitation, the College seeks to determine 1) if the person initiating sexual activity knew that the other participant was incapacitated and 2) if not, would a reasonable person have known that the other participant was incapacitated. If the College determines that either of these statements are true, consent was absent.
- (f) Consent is never present if an individual is under the legal age of consent (17 in the State of Texas).

### **1.35 Emergency Removal**

The Process by which Austin College may remove a respondent from the College's education program or activity on an emergency basis, provided that the Title IX Office undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

### **1.36 Parental Notification**

Austin College retains discretion on a case-by-case basis in determining if, and when, it will be appropriate to contact a student's parent(s) or guardian(s). Students are encouraged to inform their parent(s) or guardian(s) if they are involved in a Title IX action and should refer them to the Title IX Coordinator or their designee and this policy for questions.

### **1.37 Process Participants**

#### **1.37.1 Title IX Coordinator**

This individual is responsible for the oversight of this policy and the Enforcement of Supportive Measures and Sanctions.

### 1.37.2 **Reporting Participant**

An individual who provides notice to the College that they have experienced one or more acts of sexual misconduct. If necessary, the College can assume the role of reporting participant.

### 1.37.3 **Complainant**

An individual who is alleged to be the victim of conduct that could constitute sexual harassment or any of the violations defined in this policy.

A “complainant,” includes:

- a student or employee of Austin College who is alleged to have been subjected to conduct that could constitute sex discrimination or harassment under Title IX or its regulations; or
- a person other than a student or employee of Austin College who is alleged to have been subjected to conduct that could constitute sex discrimination or harassment under Title IX or its regulations at a time when that individual was participating or attempting to participate in Austin College’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- Austin College’s Title IX Coordinator.

### 1.37.4 **Complaint**

A complaint means an oral or written request to Austin College that objectively can be understood as a request for Austin College to investigate and make a determination about alleged discrimination under Title IX or its regulations.

### 1.37.5 **Respondent**

Any individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or any of the violations defined in this policy. Respondent means a person who is alleged to have violated the Austin College’s prohibition on sex discrimination.

### 1.37.6 **Witness**

The reporting and responding participants have the right to identify any individuals who may be witnesses to the conduct alleged in a formal complaint. Participants may provide an explanation as to the witness’s relevance to the investigation at the time the witnesses are identified to the investigator(s). Participants should be aware that it is possible for both reporting and responding participants to list the same people as witnesses on their behalf. Witnesses are expected to cooperate and speak the truth. Witnesses should not be intimidated, threatened or improperly influenced in any way by either participant or through other individuals (e.g. friends, family members, attorneys, social media, etc..). The investigator(s) will attempt to interview any witnesses identified by the participants that the investigator(s) deems to be relevant to the resolution of the complaint. As members of Austin College’s community, students and employees are expected to cooperate with and participate in the investigation process. Witnesses

may also be a Party Advisor.

### **1.37.7 Party Advisor**

Each Complainant and Respondent in a sexual misconduct investigation is entitled to one Party Advisor of their choosing to perform cross examination at the Live Hearing and accompany and assist them throughout the campus resolution process. The Party Advisor can be a friend, family member, attorney, college employee, witness, or any other individual a participant selects who is willing, eligible, and available. Other than serving as a witness and conducting Cross Examination at the Live Hearing (in the Title IX Formal Resolution Process), a Party Advisor may not be otherwise involved in the process.

Participants are entitled to be accompanied by their party advisor in all meetings and interviews at which participants are requested to be present. The party advisor may help their participant prepare for each meeting. At a Title IX Formal Resolution Live Hearing the Party Advisor is permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. If a party does not have an advisor present at the live hearing, Austin College will provide without fee or charge to that party, an advisor (not required to be an attorney) to conduct cross-examination on behalf of that party. Party Advisors may not answer questions for the party they are advising during an Investigation, Live Hearing, or other meeting. Party Advisors may not give the opening or closing for the party they are advising during the Live Hearing (Title IX Formal Resolution Process).

All party advisors are subject to the same campus rules, whether or not they are attorneys. Party advisors who step out of their role or otherwise violate this policy during the campus resolution process will be subject to removal as a party advisor.

The College expects the party advisors to adjust their schedules to allow them to attend College meetings, interviews, or other necessary events when scheduled.

Accommodations for participation may be considered (e.g. phone, Skype).

Participants must inform the Title IX Coordinator of the identity of their party advisor. Participants and the party advisor must provide timely notice of a change in party advisors to the Title IX Coordinator. Prior to attending any interviews, the party advisor will be required to agree to confidentiality/non-retaliation, agreeing not to disclose or discuss anything relating to the formal report with anyone other than those authorized to see or hear such information under this process. A party's advisor may choose to withdraw from their role during the process for any reason. A party advisor must provide notice to the Title IX Coordinator when they withdraw from their role.

### **1.37.8 Investigator**

The Individual assigned by the Title IX Coordinator to investigate a Formal Complaint of Sexual Misconduct. These individuals will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The Title IX Office will ensure that all investigators receive training on the definition of sexual harassment in § 106.30, the scope of Austin College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution

processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Investigators have received training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Materials used to train these individuals do not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

#### 1.37.9 **Decision Maker**

The individual assigned by the Title IX Coordinator to ask relevant questions at the hearing and decide if cross examination questions are relevant at the live hearing, and to make determinations regarding responsibility. These individuals will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The Title IX Office will ensure that all decision makers receive training on the definition of sexual harassment in § 106.30, the scope of Austin College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Title IX Office will ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Materials used to train these individuals do not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

#### 1.37.10 **Clerk**

The individual assigned by the Title IX Coordinator to assist all participants in the Formal Resolution process with scheduling. This person may also enforce the decorum rule at the live hearing in a Formal Resolution.

#### 1.37.11 **Support Person**

All parties may have a support person accompany them to all interviews and meetings. Support Persons may also be a party's advisor. Support Persons are never allowed to answer for, or speak on behalf of the party they are supporting. Support Persons may confer quietly and briefly with the person they are supporting as needed in a meeting. The Support Person can be a friend, family member, attorney, college employee, or any other individual a participant selects who is willing, eligible, and available. Support Persons may not otherwise be involved in the process.

All Support Persons are subject to the same campus rules, whether or not they are attorneys. Support Persons who step out of their role or otherwise violate this policy during the campus resolution process will be subject to removal as a Support Persons. The College expects the Support Persons to adjust their schedules to allow them to attend College meetings, interviews, or other necessary events when scheduled. The College does not typically change such scheduled meetings to accommodate a support person's ability to attend. Other accommodations for participation may be considered (e.g. phone, Skype).

Participants must inform the Title IX Coordinator of the identity of their Support Person. Participants and the support person must provide timely notice of a change in support person to the Title IX Coordinator. Prior to attending any interviews, the support person will be required to agree to confidentiality/non-retaliation, agreeing not to disclose or discuss anything relating to the formal report with anyone other than those authorized to see or hear such information under this process. A support person may choose to withdraw from their role during the process for any reason. A support person must provide notice to the Title IX Coordinator when they withdraw from their role. Support Persons that are not also serving as a Party Advisor will not receive evidence or the Investigative report for review.

### **1.38 Relevant Evidence**

The Formal Resolution Process will provide an objective evaluation of all relevant evidence and not otherwise impermissible—including both inculpatory and exculpatory evidence. All credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

- 1) Relevant Evidence is defined as evidence:
  - Tending logically to prove or disprove a fact of consequence or to make the fact more or less probable and thereby aiding the trier of fact in making a decision.
  - Having a significant and demonstrable bearing on the matter at hand.
  - Affording evidence tending to prove or disprove the matter at issue or under discussion. “Relevant.” Merriam-Webster.com Dictionary, Merriam-Webster.
  
- 2) The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Austin College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
  - Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
  - A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Austin College obtains that party’s or witness’s voluntary, written consent for use in its grievance procedures; and
  - Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant’s prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual 15 conduct between the complainant and respondent does not by itself demonstrate or imply the complainant’s consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

### **1.39 Student Amnesty**

Students may be concerned about reporting sexual misconduct believing that their own behavior might subject them to disciplinary action (e.g., if a reporting participant or witness is underage and was using alcohol or drugs at the time of the incident).

Witnesses and reporting participants should be assured that the focus in matters of sexual misconduct is always on the reported behavior, not on whether the witness or reporting participant was using alcohol or

drugs at the time. Individuals are encouraged to come forward and report such conduct regardless of the surrounding circumstances. 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 does 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.

#### **1.4 REPORTING SEXUAL MISCONDUCT**

Individuals may choose to seek action or assistance both on campus as well as through surrounding community resources. The following are examples of reasons that one might choose to report an incident of alleged misconduct to:

- To receive support in coping with an incident.
- To make Austin College aware of behavior in case it is part of a larger pattern.
- To help prevent similar incidents from happening in the future.
- To seek information about taking formal action against someone.
- To seek information about educating someone about their behavior through use of the College's Title IX process and procedures.

Reports should be filed with the Title IX Coordinator or Deputy Coordinator:

**Title IX Coordinator**

Melanie Oelfke  
Director of Wellbeing and Human Resources  
Administration Building, Room 211  
900 N. Grand Ave., STE 6I  
Sherman, TX 75090  
Telephone: 903.813.2433  
Email: [moelfke@austincollege.edu](mailto:moelfke@austincollege.edu)

**Deputy Title IX Coordinator**

Liz Washington  
Compliance Coordinator/HR Generalist  
Administration Building, Rm 216  
900 N. Grand Ave., STE 6I  
Sherman, TX 75090  
Telephone: 903.813.2432  
[lwashington@austincollege.edu](mailto:lwashington@austincollege.edu)

After a report of Sexual Misconduct has been filed with the Title IX Office, the Title IX Coordinator and/or Deputy Coordinator will:

- 1) Discuss the availability of supportive measures to the Reporting Participant,
- 2) Explain the process for filing of a Formal Complaint
- 3) Explain the Formal Resolution and Informal Resolution process.
- 4) Assess the nature and circumstances of the allegation;
- 5) Address any immediate concerns about the physical safety and emotional well-being of the participants;
- 6) Notify the reporting participant of the option to notify law enforcement;
- 7) Provide the reporting participant with information about the range of available on- and off- campus resources;
- 8) Describe the range of interim measures and remedies for security and support.

Once reported to the Title IX office, Supportive Measures are available as appropriate to the reporting party with or without the additional step of going through an Informal or Formal resolution.

*A report is not a request for an investigation or adjudication, these are triggered by the filing of a Formal Complaint.*

Reports to anyone other than the Title IX Coordinator and the Deputy Title IX Coordinator does not qualify



Austin College as having Actual Knowledge of Sexual Misconduct. Submitting a Report of Sexual Misconduct does not guarantee any particular result.

## **1.41 Student and Alumni / Third-Party Reports**

All Students and Third Parties wanting to make a report of sexual misconduct may do so in the following ways:

- 1) In person or through mail to the Title IX Coordinator, Melanie Oelfke, 900 N. Grand Ave., STE 6I Sherman, TX 75090. Administration Building, Room 211, Sherman, TX Main Campus
- 2) Through email to the Title IX Coordinator, [Moelfke@austincollege.edu](mailto:Moelfke@austincollege.edu)
- 3) Over the phone to the Title IX Coordinator, 903-813-2433
- 4) Online non-anonymously through the Sexual Misconduct Communication Form, available on Austin College's Title IX webpage and through this link:  
<https://hopper.austincollege.edu/hlive/webhopper?CONSTITUENCY=WBSTandtype=Pandpid=ST-XWSXM2>
- 5) Online anonymously through this link:  
<https://report.syntrio.com/StandardCustomURL/LHILandinPage.asp>
- 6) To a Limited Reporter Confidential Employee (Section 1.42.3)(Section 1.42.43), with the individual understanding that the employee must report at the minimum the type of harassment disclosed (the employee may give more information if students give permission to employee).
- 7) To a Non-Confidential Employee (Section 1.42.1), with the student understanding that the employee must report all information non-anonymously to the Title IX Coordinator.
- 8) To a Student Employee Resident Assistant and/or First Year Seminar Leader with the student understanding that the Student Employee has the obligation to report all information non-anonymously to the Title IX Coordinator.

## **1.42 Employee Reports (All Faculty and Staff)**

### **1.42.1 *Non-Confidential Employees***

Under Texas SB 212 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 shall promptly report the incident to the institution's Title IX Coordinator, or Deputy Title IX Coordinator. That report must include all the information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.

### **1.42.2 *Exceptions to the Employee Reporting Requirement***

- 1) When the person is a victim of sexual harassment, sexual assault, dating violence, or stalking. (Employees are not required to report their own experiences)
- 2) When the disclosure was made at a public awareness event on sexual harassment, sexual assault, dating violence, or stalking, and the event was sponsored by Austin College, or by a student organization affiliated with Austin College.
- 3) Employees that are currently enrolled as students are not considered employees who have the obligation to make a report under TX SB 212.
- 4) Employees that are designated as Limited-Reporter Employees.

### **1.42.3 *Limited Reporter Confidential Employees***

These are Employees of Austin College who have been designated by the college as a person with whom students may speak confidentially concerning sexual misconduct covered under this policy, or who receives information regarding such an incident under the circumstances that renders an employee’s communications confidential or privileged under other law. shall. While required to make a report to the Title IX Coordinator, they must state only the type of incident reported and may not include information that would violate a student’s expectation of privacy. The following employees and Process Advisors are designated as Limited Reporters:

Austin College Counselors	John Williams	Melissa Bressler
Counseling Services	College Chaplain	Medical Professional
Adams Center	Wynne Chapel	Adams Center
903.813.2247	903.813.2220	903.813.2247

#### **1.42.4 Confidential Reports to Austin College Police**

An Austin College Police Officer who receives information regarding an incident described in Section 1.21 of this policy from an alleged victim who chooses to complete a pseudonym form, shall, in making a report to the Austin College Title IX Coordinator, state only the type of incident reported and may not include the victim’s personally identifiable information.

### **1.43 Timing of Reports**

There is no time limit for the submission of a report alleging sexual misconduct. However, at the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the Austin College’s education program or activity.

### **1.44 Reporting Sexual Abuse Regarding Minors**

Employees of Austin College are required to report known sexual child abuse or neglect, and suspected sexual child abuse or neglect. To report to DFPS, call the 24- hour, toll-free abuse hotline at 1-800-252-5400 from anywhere in the United States to report abuse or neglect that happened in Texas.

## **1.5 SUPPORTIVE MEASURES**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Austin College’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College’s educational environment, or deter sexual harassment.

Academic Supportive measures will be coordinated with and communicated to the faculty member(s) of record and the Academic (divisional) Dean or the Vice President for Academic Affairs. Supportive measures will be confirmed in writing.

- 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,
- 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,
- Other similar measures.

The Title IX Office will maintain as private any supportive measures provided to the complainant or respondent, to the extent that maintaining such privacy would not impair the ability of the College to provide the supportive measures.

An employee or student’s failure to comply with the terms of interim measure directives is a separate violation of Austin College policy.

The availability of Supportive Measures and/or action taken by Austin College may be limited in instances where reports are made by individuals that are not participating in or attempting to participate Austin College’s educational program or activity.

## **1.6 FORMAL COMPLAINT**

Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator (in a Coordinator Initiated Complaint) alleging sexual misconduct against a respondent and requesting that Austin College investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Section 1.41 of this policy.

### **1.6(a) – Formal Complaint Requirements**

- 1) A Formal Complaint may only be submitted by the individual who is alleged to be the victim of conduct that could constitute sexual harassment or any of the violations defined in this policy
- 2) At the time of filing a Title IX or Non-Title IX formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of Austin College.
- 3) A Formal Complaint may not be filed anonymously. The Complainant cannot remain anonymous or prevent the complainant’s identity from being disclosed to the respondent via the written notice of allegation.
- 4) The Formal Complaint should contain all known details about the allegations of misconduct including: date and time, location, parties, what happened, witnesses, and any other information relevant to the complaint.

Following the submission to the Title IX Coordinator or their designee of a signed Formal Complaint:

- 1) The Title IX Coordinator or their designee will review the formal complaint and determine what allegations, if any, must be dismissed or may be dismissed under section 1.62 of this policy. Any dismissal may be appealed by either party using the appeal process outlined in section 1.9 of this policy.

- 2) Any surviving allegations may then be resolved through either the Formal or Informal resolution process, as appropriate.
- 3) The Title IX Office will send out a Notice of Allegations of surviving allegations to all known parties.

## **1.61 Notice of Allegations**

Upon receipt of a Title IX or Non-Title IX formal complaint and approval by the Title IX Coordinator as described below in 1.62, the Title IX Office will provide the following written notice to the parties who are known:

- (A) Notice of the College's Sexual Misconduct grievance process;
- (B) Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sex-based harassment, and the date(s) and location(s) of the alleged incident, if known;
- (C) The written notice will include a statement that the respondent is presumed not responsible for the alleged sex-based harassment, conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- (D) The written notice will inform the parties that they may have a Party Advisor (1.37.6) of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
- (E) The Written notice will inform the parties that they may have a Support Person (1.37.11) of their choice.
- (F) The written notice will inform the parties of any provision in Austin College's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process;
- (G) If, in the course of an investigation, the assigned Investigator decides to investigate allegations about the complainant or respondent that are not included in the initial notice, the Investigator will provide notice of the additional allegations to the parties whose identities are known;
- (H) The respondent will have a minimum of three calendar days to review the allegations and prepare a response before any initial interview.
- (I) The Notice of Allegation will expressly prohibit retaliation.
- (J) The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If Austin College provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

## **1.62 Mandatory/Discretionary Dismissal and Consolidation of Formal Complaints**

### **1.62.1(a) - Mandatory Dismissal of Title IX Formal Complaints**

Upon receipt of a Title IX formal complaint, the Title IX Coordinator will review the listed information and make a determination regarding whether the Formal Complaint must be dismissed or may continue through the Title IX process. If the conduct alleged in the Title IX formal complaint:

- 1) would not constitute Prohibited Misconduct (as defined in this policy under section 1.2, excluding section 1.22) even if proved,
- 2) did not occur in Austin College's education program or activity (section 1.1(a)),
- 3) did not occur against a person in the United States, or
- 4) if the complaint was not filed by a named Complainant (or the Title IX Coordinator) participating in or attempting to participate in the college's education program or activity or
- 5) if Austin College is unable to identify the respondent after taking reasonable steps to do so, or
- 6) The respondent is not participating in Austin College's education program or activity and is not employed by Austin College;

then the Title IX Coordinator must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of Austin College's code of conduct if applicable. If there is more than one allegation of misconduct, the trained college designee will make a determination as to each allegation. If any or all allegations in a Formal Complaint are dismissed, all parties will receive notice of the decision and an explanation for the decision. The dismissal of a Formal Complaint may be appealed by either party.

**1.62.1(b) – Mandatory Dismissal of Non-Title IX Formal Complaints**

Upon the receipt of a Non-Title IX formal complaint, the Title IX Coordinator will review the listed information and make a determination regarding whether the Formal Complaint must be dismissed or may continue through the Non-Title IX process. If the conduct alleged in the Non-Title IX formal complaint:

- 1) would not constitute Prohibited Misconduct (as defined in this policy under section 1.2, excluding section 1.21.2) even if proved,
- 2) did not occur in Austin College's operations (section 1.1(b)), or
- 3) if the complaint was not filed by a named Complainant (or the Title IX Coordinator) participating in or attempting to participate in the college's education program or activity, then the Title IX Coordinator will dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Texas Law and college policy; such a dismissal does not preclude action under another provision of Austin College's code of conduct if applicable. If there is more than one allegation of misconduct, the trained college designee will make a determination as to each allegation. If any or all allegations in a Formal Complaint are dismissed, all parties will receive notice of the decision and an explanation for the decision. The dismissal of a Formal Complaint may be appealed by either party.

**1.62.2 Discretionary Dismissal / Complaint Withdraw**

Austin College's Title IX Coordinator may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by Austin College; or specific circumstances prevent Austin College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. If a Formal Complaint is dismissed both parties will receive notice of the decision and an explanation for the decision. The dismissal of a Formal Complaint may be appealed by either party.

Specific Circumstances meriting discretionary dismissal are:

- 1) When no complainant is identified during the investigation.
- 2) When a formal complaint contains allegations that are precisely the same as allegations the recipient has already investigated and adjudicated.
- 3) When the length of time elapsed between an incident of alleged sexual harassment, and the filing of a formal complaint, prevent a recipient from collecting enough evidence to reach a determination.
- 4) When the complainant has stopped participating in the investigation but has not sent a written withdrawal request and the only inculpatory evidence available is the complainant's statement in the formal complaint or as recorded in an interview by the investigator.
- 5) Austin College obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and Austin College determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or

Upon dismissal, Austin College will promptly notify the complainant in writing of the basis

for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Austin College will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

Austin College will notify the complainant that a dismissal may be appealed (as outlined in the appeals section) and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then Austin College will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, Austin College will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, Austin College will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Austin College's education program or activity.

### 1.62.3 ***Consolidation of Complaints***

Austin College may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances, except when complaint consolidation would violate the Family Educational Rights and Privacy Act (FERPA). When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

## **1.63 Timing of Formal Complaints**

There is no time limit for the filing of a Formal Complaint. However, at the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the Austin College's education program or activity.

## **1.64 Title IX Coordinator Signs the Formal Complaint**

The Title IX Coordinator has discretion to sign a formal complaint. The following are circumstances that the Title IX Coordinator will take into account when making the decision to sign a Formal Complaint: the complainant's wishes, whether a complainant's allegations involved violence, use of weapons, threats, serial predation, or similar factors.

## **1.65 "Participating in or Attempting to Participate in" Defined**

Austin College only considers currently enrolled students and current employees to meet this definition.

### **1.7 INFORMAL RESOLUTION PROCESS**

Where appropriate, the informal resolution process can be used to resolve allegations of sexual misconduct or interpersonal violence by taking immediate and corrective action to stop the conduct, address its effects, and prevent recurrence without implementing a formal resolution process. An informal resolution process may also include a remedies- based process (mediation), which allows both participants to come to a mutual agreement regarding the resolution of the complaint. Informal resolutions may reach agreements between the parties, facilitated by the Title IX Coordinator or their designee, that include continued supportive measures but that also could include disciplinary measures, while providing finality for both parties in terms of resolving allegations raised in a formal complaint of sexual harassment.

**The Informal Resolution Process may not be used to resolve a Formal Complaint alleging that an employee sexually harassed a student (Section 1.21).**

Austin College will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, Austin College will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information Austin College will maintain and whether and how Austin College could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

The informal resolution process may include the range of Supportive measures described above (Section 1.5), as well as targeted or broad-based training and educational programming for relevant individuals and groups or any other remedy that will achieve the goals of the College's policy. This process is facilitated by the Title IX Coordinator or their designee. For example, both participants may agree that the permanent application of supportive measures (e.g. no-contact order) may be sufficient to resolve the complaint. This option is available if the College determines that such a process would be appropriate, and all participants agree to participate.

To enter into the Informal Resolution Process, both parties must provide voluntary written consent after receiving and reviewing the Notice of Allegation, and rules regarding the Informal Resolution Process.

The participants in any informal resolution process will not be required to interact with each other directly. Instead, the Title IX Coordinator or designee will arrange for or facilitate a remedies-based process or other form of mediation between the involved participants who are in different rooms.

Once an informal resolution process is complete, both participants will be notified simultaneously/contemporaneously (to the greatest extent possible, and consistent with FERPA or other applicable law) of the resolution. Either party may withdraw from the Informal Resolution process at any time prior to signing the agreement. If the parties are unable to reach an Informal Resolution agreement, the informal process will end and the Formal Resolution process will begin again. The Title IX Coordinator will inform both parties when one party has withdrawn from the informal resolution. If the parties indicate they are not able to agree to the proposed Informal Resolution(s), the Title IX Coordinator will end the Informal process and notify parties that the Formal resolution process has been initiated.

### **1.71 Administrative Agreement**

The Administrative Agreement is an available form of Informal Resolution where the responding participant may elect to accept responsibility for the alleged policy violation through an Administrative Agreement, bringing an end to the Informal Resolution Process. To execute an Administrative Agreement both parties must acknowledge the policy violation, accept the proposed sanction(s), and waive any opportunity for appeal.

At any time prior to the final Informal Resolution/Administrative Agreement either party may withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

Parties that wish to pursue the Administrative Agreement Informal Resolution must notify the Title IX Coordinator in writing of their desire to do so. After the Title IX Coordinator has received both parties written notice of desire to engage in the Administrative Agreement, the Title IX Coordinator will issue a draft Administrative Agreement which includes the acknowledgement of the policy violation, the proposed sanctions as determined by the Title IX Coordinator, and the waiver of appeal. If agreed to by both parties then the Resolution process will end, and the Title IX Coordinator will enforce the agreement.

### **1.72 Disciplinary Sanctions and Remedies**

Following a determination that sex-based discrimination or harassment occurred in the informal



resolution process, Austin College may impose disciplinary sanctions, which will be determined by the appropriate official(s) as designated by the College, and may be based on a number of considerations. Such considerations may include: severity, persistence, or pervasiveness of the policy violation; nature of the policy violation, including whether the policy violation included violence; impact on the reporting participant; impact on the responding participant; impact or implications of the policy violation on the larger Austin College community; prior misconduct by the responding participant, including the responding participant's relevant prior disciplinary history at the College; whether the responding participant accepts responsibility for the policy violation; maintenance of a safe, nondiscriminatory, and respectful environment conducive to learning; and any other mitigating, aggravating, or compelling factors. Specific disciplinary sanctions are listed in Section 1.84; however, this is not to be considered an inclusive and absolute list.

Austin College will provide remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent. § 106.45(b)(1)(i). Remedies must be designed to restore or preserve equal access to the Austin College's education program or activity. Such remedies may include the same individualized services described in Section 1.5 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive, and need not avoid burdening the respondent. Remedies may overlap with sanctions.

Remedies and support are not required for respondents; however, Austin College will provide reasonable measures (such as education/training) to ensure the sexual harassment or discrimination is rectified and all parties can continue equal access to education. The Department of Education declines to require remedies for respondents in situations where a complainant is found to have brought a false allegation. The Title IX Coordinator implements remedies when the final determination has indicated that remedies will be provided. The complainant and respondent can then communicate separately with the Title IX Coordinator to discuss what remedies are appropriately designed to preserve or restore equal access to education.

Austin College will provide written determinations to preserve confidentiality concerning remedies as much as possible. For instance, if a party wishes to change the housing arrangement as part of a remedy, the written determination should simply state that remedies have been identified and will be provided. The individual party would then communicate separately with the Title IX Coordinator to discuss specifically appropriate remedies and the timing/execution of such remedies.

## **1.8 FORMAL RESOLUTION PROCESS**

Austin College will provide for adequate, reliable, and impartial investigation of complaints. Throughout the formal resolution process, participants will be treated fairly and equitably. The Formal Resolution Process requires and will provide an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence. All credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The Title IX Formal Resolution Process utilizes an Investigation by a trained investigator, and a Live Hearing with Cross Examination of the opposing party and all witnesses performed by the Party Advisor in front of a Decision Maker who is not the investigator. The Non-Title IX Formal Resolution Process utilizes a trained Investigator to prepare an Investigative Report, allows for party review and response to that Report, follow up interviews by the investigator, a decision regarding responsibility made by the Investigator, and sanctions/remedies issued by the Title IX Coordinator.

### **1.8(a) Title IX Formal Resolution Process**

The Title IX Formal Resolution Process will follow these steps as articulated in 34 C.F.R. 106.45(5)-(7):

- 1) An investigation to gather all relevant evidence.
- 2) All evidence collected is compiled by investigator and sent to both parties and their advisor. The parties will have 10 days to review and respond to the evidence collected. All responses are sent to the investigator.
- 3) The evidence collected and party responses submitted within the allotted 10 days to that evidence are incorporated into the Investigative Report which will fairly summarize all relevant evidence.
- 4) The Investigative Report will be sent to the parties and their designated Party Advisor. The parties will have at least 10 days to review and respond to the Investigative Report before the Formal Resolution Live Hearing. The Title IX Coordinator will communicate the date, time, and location (or online meeting link) to the parties and their advisors.
- 5) The Live Hearing Decision Maker reviews the Investigative report before the Live Hearing.
- 6) A Live Hearing where the Decision Maker and both party advisors may ask any party and witness relevant cross examination questions as determined by this policy and enforced by the Decision Maker.
- 7) The Publication of a Determination Regarding Responsibility which includes the rational and an outline of any sanctions and/or remedies imposed by Austin College.
- 8) Applicable appeals process.

### **1.8(b) Non-Title IX Formal Resolution Process**

- 1) An investigation to gather all relevant evidence.
- 2) Both parties and their advisors are emailed the evidence collected by the investigator and have 10 days to submit written responses to the Investigator.
- 3) The Investigator creates the Investigative Report out of collected evidence and responses. The Investigative Report will fairly summarize all relevant evidence.
- 4) Both parties and their advisors are emailed the Investigative Report by the investigator and have 10 days to submit written responses to the Investigator.
- 5) The Investigator conducts any necessary follow up interviews or discussions based on party responses to Investigative report.
- 6) The Investigator publishes a Determination Regarding Responsibility which includes the rational for each decision.
- 7) The Title IX Coordinator will, after reviewing the Investigative Report and consulting with the Investigator as needed, assign sanctions and/or remedies as they deem appropriate.
- 8) Applicable appeals process.

## **1.81 Investigation of Title IX and Non-Title IX Formal Complaints**

Austin College will provide for adequate, reliable, and impartial investigation of complaints. Throughout the investigation and process, participants will be treated fairly and equitably. The Title IX Coordinator will assign an investigator(s) who has been trained in the investigation of, and other issues related to, sexual discrimination, sexual misconduct, and interpersonal violence. The investigator(s) shall not have a conflict of interest or bias for or against any participants involved in the potential policy violation. The investigator(s) will undertake an investigation for the purposes of creating an Investigative report that fairly summarizes evidence relevant to the allegations in the Formal Complaint.

The burden is on Austin College—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred. Austin College will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. Austin College will review all evidence

gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Each party will be provided with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- Austin College will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If Austin College provides a description of the evidence, Austin College will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- Austin College will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- Austin College will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized

### **1.81.1 Investigation Requirements:**

- 1) It is the responsibility of the investigator(s) assigned by Austin College to gather the evidence relevant to the formal complaint and the facts raised in the participant's statements, provided that the Investigator cannot access, consider, disclose, or otherwise use a party's records 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, unless the Investigator obtains that party's voluntary, written consent to do so. Participants should make themselves available to the investigator(s) and can provide information they believe relevant to the investigators.
- 2) Both Parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- 3) The Title IX Office will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- 4) The Investigator will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. Austin College will not limit either party's choice or presence of advisor in any meeting or grievance proceeding. Timely notice of a party's Change of Advisors must be made to the Title IX Office. During the Investigation, advisors may not advocate or present on behalf of the participant, they may only confer quietly with their participant as necessary, as long as it does not disrupt the investigation interview. This rule applies equally to both the complainant and the respondent.
- 5) The Title IX Office and/or the assigned investigator will provide to a party and their advisor whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all, investigative interviews, with sufficient time for the party to prepare to participate. Sufficient time for the purpose of an interview under this section is at least 3 days.
- 6) Parties may submit to the Investigator questions they would like asked of any known potential witnesses or parties.
- 7) Austin College will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible. Austin College will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence. When Austin College provides an investigative report, all parties will be provided with an equal

opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party. Austin College will provide a reasonable opportunity to review and respond to the evidence or the investigative report. If Austin College conducts a live hearing as part of its grievance procedures, it will provide this opportunity to review the evidence in advance of the live hearing. Austin College may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing. Austin College will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

#### 8) Questioning the Parties and Witnesses:

Austin College will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

When Austin College chooses not to conduct a live hearing: Austin College's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

When Austin College chooses to conduct a live hearing: Austin College's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decisionmaker to ask such questions, and either:

- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker, subject to the procedures for evaluating and limiting questions discussed below; or
- Allow each party's advisor to ask any party or witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a party personally. If Austin College permits advisor-conducted questioning and a party does not have an advisor to ask questions on their behalf, Austin College will provide the party with an advisor of Austin College's choice, without charge to the party, for the purpose of advisor-conducted questioning. In those instances, Austin College will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.

#### **1.81.2 *Compilation of Evidence sent to Parties for Review and Response***

After all initial interviews are completed and relevant evidence has been collected, the Investigator will send that compilation of evidence to both parties and their advisors for review and response. This Compilation of Evidence contains the evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Austin College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Parties will have 10 days to submit their

responses to the investigator.

### **1.81.3 Investigative Report Created, Sent to Parties**

The Investigator will take the evidence collected, and the parties' responses to the Compilation of Evidence sent to Parties to create the Investigative Report.

The Investigative Report will then be submitted electronically to both parties and their advisors. Both parties will have ten days to review and respond to the Investigative Report. Parties must submit their responses to the Investigator.

### **1.81.4 Investigative Report Submitted to Decision Maker**

After the allotted 10 days, the Investigative Report and the party responses to it will be sent to the Decision maker for review.

### **1.81.5 Live Hearing Scheduled (Title IX Sexual Harassment Only)**

The Title IX Office will communicate with both parties the time, location, and manner of Live Hearing, which will be held at least ten days after both parties are sent the Investigative Report.

### **1.81.6 Submitting New Evidence**

Parties and witnesses may submit new evidence to the Investigator that could affect the outcome of the matter if it was not reasonably known at the time of their interviews, within the 10 days allotted for review and response to the Investigative report under section 1.81.3(8). New Evidence submitted to the Investigator after the 10 days will not be received or discussed at the Live Hearing.

## **1.82 Live Hearing (Title IX Sexual Harassment Only)**

### **1.82.1 Hearing Order**

The Live Hearing will proceed as follows:

- 1) Opening Statement by the Decision Maker, Complainant, and Respondent.
- 2) Examination of the Complainant by: Decision Maker, then Respondent Party Advisor
- 3) Examination of the Respondent by: Decision Maker, then Complainant Party Advisor
- 4) Examination of Witness One by: Decision maker, then Complainant Party Advisor, then Respondent Party Advisor. (Step 4 repeats until all witnesses have been examined.)
- 5) Either Party Advisor may request a brief re-cross of an opposing party or any witness.
- 6) Closing Statement by Complainant, then Respondent.

### **1.82.2 Digital Hearing Request**

At the request of either party, The Title IX Office must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or the witness answering questions. Austin College will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review. Virtual hearings are considered live hearings may be

conducted at the discretion of the Title IX Coordinator.

### **1.82.3 Cross Examination**

At the live hearing, the decision-maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

### **1.82.4 Party Advisors**

Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. If a party does not have an advisor present at the live hearing, Austin College must provide without fee or charge to that party, an advisor of Austin College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. Austin College may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

### **1.82.5 Decision Maker Determines Relevant Evidence Procedure**

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. This determination will be made in real time; cross exam questions may not be approved as relevant or not relevant before the hearing. When the Party Advisor objects to the Decision Makers ruling on Relevance, they may make a brief statement to the Decision Maker as to why the question is relevant and doesn't call for privileged information or non-relevant sexual behavior. The Decision Maker will either allow the question or rule it as not relevant.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Questions Procedure. Advisors will ask questions under the following procedure:

- The party advisor will ask a question of the applicable participant.
- Before the participant answers a question, the Decision Maker will rule as to whether the advisor's question is relevant to the alleged conduct charges in one of three ways:
  - 1) Relevant, 2) Not relevant, the questions asks about a detail that does not tend to prove or disprove the matter at issue or under discussion, or 3) Not relevant, calls for prior sexual behavior information without meeting one of two exceptions.
- If the Party Advisor asking the question objects to the Decision Makers ruling and/or explanation of the question as not relevant, the Party Advisor may offer a brief statement as to why it is relevant. If this is done the Decision Maker will consider the statement, and make a ruling one way or the other.
- If the hearing officer allows the question as relevant, the participant will answer it.

#### **1.82.6 *Failure of a Party or Witness to Submit to Cross Examination***

A decision-maker at a postsecondary institution may consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process.

For example, a decision-maker at a postsecondary institution may consider statements made by the parties and witnesses during the investigation, emails or text exchanges between the parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the regulation's relevance rules, regardless of whether the parties or witnesses submit to cross-examination at the live hearing. A decision-maker at a postsecondary institution may also consider, when relevant, police reports, Sexual Assault Nurse Examiner documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.

The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

#### **1.82.7 *Rules of Decorum***

During the Live Hearing, the Clerk and/or Decision Maker(s) will enforce rules of decorum. Parties and their Advisors are forbidden from badgering the other party or any witness.

Badgering includes yelling at, harassing, or asking the same irrelevant question multiple times. The Clerk will notify the party or their advisor when they are badgering the witness and will ask the party or advisor to conform their question asking to an appropriate, non-badgering manner. All communication by all participants toward any other participant must be done respectfully.

#### **1.82.8 *Review of Exhibits***

During the Live Hearing, Party Advisors may show relevant videos, pictures, and documents that were included in the Investigative Report and are ruled relevant by the Decision Maker. During their allotted time to examine the applicable participant, the Party Advisor will tell the Decision Maker which exhibit they plan on asking relevant questions about, and then the question procedure listed under section 1.82.5 of this policy will be followed.

#### **1.82.9 *No New Evidence may be introduced at Live Hearing***

Evidence that was not included in the Investigative Report may not be introduced at the Live Hearing. Both parties have the equal right to appeal the Determination regarding responsibility based on the availability of newly discovered evidence that may affect the outcome of the matter.

### 1.82.10 *Reasonable Time Limit on Hearing / Break*

The Live Hearing will have a reasonable time limit determined by the Decision Maker. The Decision Maker may grant short breaks on their own, or as requested by the parties.

## 1.83 Determination Regarding Responsibility

- 1) The decision-maker, who cannot be the same person(s) as the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the Decision-maker will apply the preponderance of the evidence standard of evidence. Preponderance of the evidence means more likely than not. This standard is used in all Title IX and Non-Title IX Sexual Misconduct cases. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, the decisionmaker will not determine that sex discrimination occurred.
- 2) The written determination will notify the parties as close as possible to simultaneously whether or sex-based harassment occurred and the notice must include:
  - (A) Identification of the allegations potentially constituting sexual harassment as defined in this policy.
  - (B) A description of the procedural steps taken from the Title IX Office of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - (C) Findings of fact supporting the determination;
  - (D) Conclusions regarding the application of Austin College's Sexual Misconduct policy to the facts;
  - (E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Austin College imposes on the respondent, and whether remedies designed to restore or preserve equal access to Austin College's education program or activity will be provided by the Title IX Office to the complainant; and
  - (F) Austin College's procedures and permissible bases for the complainant and respondent to appeal. (Described below)
  - (G) The Title IX Office must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that Title IX Office provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
  - (H) The Title IX Coordinator is responsible for effective implementation of any remedies to a complainant and other people Austin College identifies as having had equal access to Austin College's education program or activity limited or denied by sex discrimination. The Title IX Coordinator will oversee the imposition of any disciplinary sanctions on a respondent, including notification to the complainant that disciplinary sanctions have been rendered. The Title IX Coordinator will take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Austin College's education program or activity.

## 1.84 Sanctions

If a participant is found in violation of a college policy, sanctions will be determined by the appropriate official(s) as designated by the College, and may be based on a number of considerations. Such considerations may include: severity, persistence, or pervasiveness of the policy violation; nature of the policy violation, including whether the policy violation included violence; impact on the reporting participant; impact on the responding participant; impact or implications of the policy violation on the larger Austin College community; prior misconduct by the responding participant, including the responding participant's relevant prior disciplinary history at the College; whether the responding participant accepts responsibility for the policy violation; maintenance of a safe, nondiscriminatory, and respectful environment conducive to learning; and any other mitigating, aggravating, or compelling factors.



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 sanctions,
- No Contact Orders,
- Time and place restrictions or bans,
- Housing restrictions,
- Extension of requirements used as supportive 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.

#### **1.84.1 *Student Withdrawal or Graduation Pending Disciplinary Charges***

If a student is ineligible to reenroll at Austin College for a reason other than an academic or financial reason, Austin College will include on that student's transcript a notation stating that the student is ineligible to reenroll for a reason other than an academic or financial reason.

If a student withdraws or graduates from Austin College pending disciplinary charges that may result in the student becoming ineligible to reenroll in the college, the college will not end the disciplinary process until there is a final determination of responsibility. If, as a result of the process, the student is ineligible to reenroll at Austin College for a not academic or financial reason, a notation stating such will be placed on that student's transcript.

The Transcript Notation may be removed if: 1) the student becomes eligible to reenroll in the college, or 2) the college determines that good cause exists to remove the notation.

## 1.9 APPEALS

Once written notification of 1) the dismissal of a Formal Complaint or any allegations therein OR 2) the determination regarding responsibility has been issued, both parties have the right to submit an appeal.

### 1.91 Grounds for Appeal

Appeals from a dismissal or determination whether sex-based harassment occurred, may be submitted solely upon the following four grounds:

#### 1.91.1 *Procedural Irregularity*

Procedural Irregularity that affected the outcome of the matter;

#### 1.91.2 *New Evidence*

New Evidence that was not reasonably available at the time the Investigative Report was published or dismissal was made, that could affect the outcome of the matter; and

#### 1.91.3 *Conflict of Interest/Bias*

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.

#### 1.91.4 *Sanction is Disproportionate to the Violation*

### 1.92 Appeal Process

- 1) Appeals must be submitted in writing to the Title IX Coordinator within 7 days of the participants receiving either the Dismissal of a Formal Complaint or any allegations therein, or the Decision Regarding Responsibility.

If a party appeals a dismissal or determination whether sex-based harassment occurred, Austin College will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that Austin College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal Austin College offers will be equally available to all parties.

- 2) Any information that is submitted will be made available to the other participant for review. The other participant may submit a rebuttal of the appeal in writing to the Title IX Coordinator within 7 days of receiving the appeal information.
- 3) Upon receiving an appeal and rebuttal, if one is submitted, the Title IX Coordinator will refer it to the appropriate appeal agent for review and final decision making.

- Appeals addressing procedural Irregularities in the investigation and resolution process in a way that substantially altered the outcomes of the case shall be referred to an alternate investigator(s) and or decision maker(s) for review and decision making.
  - Appeals providing substantive new evidence, which is information that was not reasonably available before the publication of the Investigative Report or dismissal was made and that could affect the outcome of the matter shall be referred to an alternate investigator(s) and or decision maker(s) for consideration and determination of a finding based on the new information.
  - Appeals alleging a Conflict of Interest/Bias by the Title IX Coordinator, Investigator, or decision maker for or against complainants or respondent generally, or the individual complainant or respondent, that affected the outcome of the matter shall be referred to an alternate investigator(s) and or decision maker(s) for review and decision making.
  - Appeals alleging that the sanction is disproportionate to the violation shall be assigned to the following appellate agents for review and decision making:
    - (a) The Faculty Hearing Committee or designee if the responding participant is a faculty member,
    - (b) The Vice President for Business Affairs or designee if the responding participant is a staff member,
    - (c) The Vice President for Student Affairs or designee if the responding participant is a student, or
    - (d) An appropriate appeals agent as determined by the Title IX Coordinator if the responding participant is not a member of the groups listed above.
- 4) The College will seek to complete the appeals process within 21 business days unless the College determines in its discretion that more time is required, in which case the participants will be notified of the need for an extension of the 21-day period. The College will provide periodic updates as it deems appropriate.
  - 5) The appropriate appeals agent will issue a written decision describing the result of the appeal and the rationale for the result. The Title IX Coordinator or designee will notify the participants simultaneously, to the extent possible, in writing of the appeal agent's decision.
  - 6) Finding and sanction decisions made by appeal agent are final.

End of Policy

## What to Do If You Are the Victim of a Crime...

**CALL (903) 813-2555**

Contact Campus Police (903) 813-2555 as soon as possible. Describe the suspect to the dispatcher and inform the dispatcher of the direction of travel taken by the suspect.

Remember all you can about the suspect and relay that information to the dispatcher. Try to remember race, gender, clothing description, height, weight, color of hair and eyes, any unusual features, jewelry, and description of vehicle.

Remain on the phone with the dispatcher until told to hang up.

### Important Phone Numbers

Emergency	911
Campus Police	(903) 813-2555
Student Life Office	(903) 813-2306
Vice President for Student Affairs & Chief Inclusion and Diversity Officer	(903) 813-2228
Associate VP of Student Affairs & Dean of Students	(903) 813-2306
Counseling Services	(903) 813-2247
Health Services	(903) 813-2247
College Chaplain	(903) 813-2210
Physical Plant	(903) 813-2006
Women's Crisis Center	(903) 893-5615
Alcoholics Anonymous	(903) 392-7428
Outpatient Services Texoma	(903) 416-4000
TMC Behavioral Health Center	(903) 416-3000
<b>Melanie Oelfke, Title IX Coordinator</b>	<b>(903) 813-2433, press 1</b>

