



## Administrative Rules

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**SUBJECT:** Prohibition of Sexual Discrimination or Sexual Violence or Sexual Harassment of Students      **AR#:** 3.10.003

**Based on Board Policy:** [C-10, Safe and Healthy Teaching and Learning Environment](#)

**Recommended by Council/President:** President

**Date Approved/Amended:** 06/07/2013; amended 04/14/16

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### I. Policy Statement

It is the policy of the Austin Community College District (“ACC” or the “College”) to provide an educational and working environment for its students, faculty, and staff that is free from sex and gender discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence (including domestic violence and dating violence), and stalking.

ACC will not tolerate sex and/or gender discrimination (including discrimination on the basis of gender orientation, gender identity or gender expression), sexual harassment, sexual misconduct or physical abuse, threats of violence, physical assault, or any form of sexual violence, including but not limited to sexual assault, acquaintance rape, domestic violence, dating violence, or stalking (collectively or singly referred to as “prohibited conduct”). Individuals who alone, or in concert with others, participate or attempt to participate in prohibited conduct described in this rule are subject to disciplinary action by ACC, notwithstanding any action that may or may not be taken by civil or criminal authorities. Students who engage in such prohibited conduct will be subject to disciplinary sanctions as provided in section four (4) of the Student Standards of Conduct.

ACC encourages affected individuals to promptly report incidents of sex and gender discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and stalking as provided in this rule. ACC also encourages individuals who may have witnessed instances of prohibited conduct to report such information as outlined in this rule.

Responsible Employees of ACC (as defined below) are required to promptly report incidents of prohibited conduct. ACC will respond to all reports made under this rule. ACC will conduct a prompt, fair, and impartial investigation and resolution for complaints and, where appropriate, issue remedial measures and/or sanctions.

### II. Scope

The standards in this Administrative Rule apply to all ACC students and employees, visitors, applicants, as well as ACC affiliates and others conducting business on campus. ACC employees

**President/CEO:** Richard M. Rhodes      **Date:** 04/14/2016

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wishing to report a violation of this rule should do so pursuant to ACC Administrative Rule 6.02.001.

In addition to incidents that occur at any ACC campus or facility, ACC may take disciplinary action in response to incidents that take place during official functions of ACC or functions sponsored by registered student organizations, or incidents that have a substantial connection to the interests of the ACC regardless of the location in which the incident(s) occur.

The standard of evidence that will be used in investigating and adjudicating complaints made under this rule is the “preponderance of the evidence” standard. This standard is met if the allegation is deemed more likely to have occurred than not. Proceedings under this rule will provide a prompt, fair, and impartial investigation and resolution of complaints.

**III. Definitions**

For purposes of this rule, the definitions below apply. However, some of these terms are also defined under federal and/or Texas State law. For more information regarding state law definitions, please refer to Section XII of this rule.

**Complaint:** A signed document or other report, including verbal reports alleging a violation of this rule.

**Complainant:** A person who submits a complaint alleging a violation of this rule.

**College Business Day:** Each day in which ACC’s central administrative office is open and operating.

**Consent:** Consent is a clear, affirmative, unambiguous and freely given agreement to engage in a specific sexual activity. Consent is demonstrated verbally or through actions that clearly indicate a willingness to engage in the specific sexual activity. Consent for a specific activity does not imply consent for any other activity. Use of alcohol, drugs, or other intoxicants does not diminish one’s responsibility to obtain consent.

Consent must be knowing and voluntary. To give consent, a person must be awake, of legal age, and have the capacity to reasonably understand the nature of his/her actions. Consent cannot be given by an individual who is mentally or physically incapacitated through the effect of drugs, alcohol or other intoxicants or for any other reason. Consent cannot be given when it is coerced, forced, or obtained by use of duress, fear, threats, or violence. Consent is not implied by the existence of a prior or current relationship or participation in prior sexual activity. Consent to engage in sexual activity may be withdrawn at any time and is automatically withdrawn by a person who is no longer capable of giving consent.

**Incapacitation:** A state of being that prevents an individual from having the capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, a person being asleep or unconscious, or because of an intellectual or other disability.

**Interpersonal Violence:** An offense that meets the definition of domestic violence or dating violence.

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**Domestic Violence:** Abuse or violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person with whom the complainant is cohabitating (or has cohabited) with a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the State of Texas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Texas.

**Dating Violence:** Abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.

**Respondent:** The person designated to respond to a complaint. Generally, the respondent is the person alleged to be responsible for the prohibited conduct alleged in a complaint.

**Responsible Employee:** Pursuant to Title IX, a Responsible Employee is a College employee who has the authority to take action to redress an alleged violation of this rule who has been given the duty of reporting such allegations to ACC's Title IX Coordinator or designee, or an employee whom an individual could reasonably believe has this authority or duty.

At ACC, Responsible Employees include, but are not limited to:

- administrators
- academic advisors
- faculty members, including professors, adjuncts, lecturers, and associate/assistant instructors; and
- all supervisory staff
- ACC District police officers

Responsible Employees have a duty to promptly report incidents of sex discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence, and stalking to ACC's Title IX Coordinator. Responsible Employees are not confidential reporting resources.

**Retaliation:** Any action that materially and adversely affects the academic, employment, or other institutional status of a student or employee of ACC, visitor, applicant for admission to or employment with ACC, because an individual has, in good faith, brought a complaint under this rule, opposed an unlawful practice, participated in an investigation, or requested accommodations. Prohibited retaliation does not include petty slights or annoyances. Examples of retaliation include, but are not limited to: denial of promotion, non-selection/refusal to hire, denial of job benefits, demotion, suspension, discharge, threats, reprimands, negative evaluations, harassment, or other adverse treatment that is likely to deter reasonable people from pursuing their rights. Retaliation is strictly prohibited and will not be tolerated.

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**Sex Discrimination:** Conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects the individual or group's education on the basis of sex (gender).

**Sexual Assault:** An offense that meets the definition of rape, fondling, incest, or statutory rape.

**Rape:** 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 complainant.

**Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

**Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape:** Sexual intercourse with a person who is younger than 17 years of age and is not a spouse of the respondent.

**Sexual Harassment:** Unwelcome conduct of a sexual nature. Sexual harassment is a form of sex discrimination that can occur when

- the submission to unwelcome physical conduct of a sexual nature, or to unwelcome requests for sexual favors or other verbal conduct of a sexual nature, is made an implicit or explicit term or condition of employment or education;
- the submission to or rejection of unwelcome physical conduct of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, is used as a basis for academic or employment decisions or evaluations;
- unwelcome physical acts of a sexual nature, or unwelcome requests for sexual favors or other verbal conduct of a sexual nature, that have the effect of creating an objectively hostile environment that substantially interferes with employment or education on the basis of sex; or
- such conduct is intentionally directed towards a specific individual and has the purpose or effect of unreasonably interfering with that individual's education, employment, or participation in College activities, or creating an intimidating, hostile, or offensive atmosphere.

Sexual harassment may include:

1. Sexual violence, as defined under the Texas Penal Code, which includes rape, sexual assault, sexual battery, and sexual coercion.

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2. Physical conduct that, depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes but is not limited to
  - unwelcome intentional touching; or
  - deliberate physical interference with or restriction of movement.
3. Verbal conduct, including oral, written, or symbolic expression, that, depending on the totality of the circumstances present, including frequency and severity, may constitute sexual harassment includes, but is not limited to
  - explicit or implicit propositions to engage in sexual activity;
  - gratuitous comments, jokes, questions, anecdotes, or remarks of a sexual nature about clothing or bodies;
  - gratuitous remarks about sexual activities or speculation about sexual experiences;
  - persistent, unwanted sexual or romantic attention;
  - subtle or overt pressure for sexual favors;
  - exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or;
  - deliberate, repeated humiliation, or intimidation based upon sex.

This rule applies only to verbal conduct that is not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

**Sexual Misconduct:** Behavior or conduct of a sexual nature that is unprofessional and/or inappropriate for the educational and/or working environment. Behaviors that may constitute sexual misconduct include, but are not limited to

- repeatedly engaging in sexually oriented conversations, comments, or horseplay, including the use of language or the telling of jokes or anecdotes of a sexual nature in the workplace, office, or classroom, even if such conduct is not objected to by those present;
- gratuitous use of sexually oriented materials not directly related to the subject matter of a class, course, or meeting, even if not objected to by those present;
- failure to observe the appropriate boundaries of the supervisor/subordinate or faculty member/student relationship, including the participation of a supervisor, teacher, advisor, or coach in a consensual romantic or sexual relationship with a current ACC student; or
- engaging in any form of sexual exploitation. Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own benefit or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material by email, text, or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease.

**Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others or would cause that person to suffer substantial

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emotional distress. A “course of conduct” means two or more acts in which a person 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 complainant. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

As used in this rule, the term “Title IX Compliance Officer” shall include any other ACC employee designated or appointed by the Title IX Compliance Officer to perform any of the duties or functions of the Title IX Compliance officer outlined in this rule.

**IV. Prohibited Conduct**

In accordance with federal and state law, ACC prohibits sex and gender discrimination, sexual harassment, sexual assault, sexual misconduct, interpersonal violence (including domestic violence and dating violence), and stalking.

Retaliation against a person who reports a potential violation under this rule, assists someone with a report of a violation, or participates in any manner in an investigation or in the resolution of a complaint made under this rule is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, reprisals and/or adverse actions related to an individual’s employment or education. ACC will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an investigation pursuant to this rule will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to file a complaint with ACC using the same procedure outlined in Section X of this rule.

**V. Support Services**

If an individual believes he/she has experienced conduct prohibited under this rule, that person should contact ACC’s Title IX Coordinator for additional assistance and information. An individual who would like to report an alleged sexual assault, interpersonal violence (including domestic violence and dating violence) and/or stalking to the police and would like an ACC representative to accompany him/her to provide support during the reporting process, should contact ACC’s Title IX Coordinator via one of the following methods:

Dr. Louella H. Tate  
ACC Title IX Compliance Officer  
Dean, Student Services, Round Rock Campus  
4400 College Park Drive, Round Rock, Texas 78665  
(512) 223-0046  
[TitleIXcomplianceofficer@austincc.edu](mailto:TitleIXcomplianceofficer@austincc.edu)

**VI. Reporting Prohibited Conduct**

ACC strongly encourages the prompt reporting of prohibited conduct covered by this rule. Delays in reporting can greatly limit ACC’s ability to stop the alleged conduct, collect evidence and/or take effective action against individuals or organizations accused of violating this rule. A report

of alleged violations of this rule may be made by:

- a person who believes they experienced prohibited conduct (a complainant); and/or
- a person who has information that prohibited conduct may have been committed (a reporter).

ACC has procedures in place that serve to be sensitive to those who report sexual misconduct, including informing individuals about their right to file criminal charges. Information is readily available regarding counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services on and/or off campus. Interim steps can also be implemented to prevent contact between a complainant and an accused party. ACC will make such accommodations, if the complainant requests them and if they are reasonably available, regardless of whether the complainant chooses to report the crime to local law enforcement or be involved in an internal investigation. ACC will handle reports of prohibited conduct consistently with procedural guidelines developed to ensure prompt and equitable resolution of such reports. If a complainant chooses not to participate in ACC's investigation of a report, ACC may, at its discretion, pursue the report without the complainant's participation.

#### ***Medical Attention and Evidence Collection/Preservation***

An individual who experiences any form of sexual assault is strongly encouraged to seek immediate medical care. Individuals may undergo a medical exam to properly collect and preserve physical evidence of the sexual assault with or without the police's involvement. It is important to preserve forensic and other physical evidence that may assist in proving that the alleged criminal offense occurred and such evidence may be helpful in obtaining a protective order against the respondent. Therefore, a medical exam should be performed immediately after the event, if possible. If a medical exam is not or cannot be performed immediately after the event, individuals may still obtain a Sexual Assault Forensic Exam (SAFE) within five (5) days of the sexual assault if law enforcement is involved and within four (4) days if they are not. With the individual's consent, the physical evidence collected during this medical exam can be used as part of a criminal investigation; however, an individual may undergo a SAFE regardless of whether he/she has contacted, or intends to contact, the police. To obtain a SAFE exam, contact SafePlace at (512) 267-SAFE. For additional information, see the Sexual Assault Legal Services & Assistance Web site. An individual may also seek an exam from their own physician.

The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the Texas Department of Public Safety. This does not include fees related to medical treatment that are not a part of the SAFE.

Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a College disciplinary hearing. If the police are called, a uniformed officer will be sent to the scene to take a detailed statement. A ride to the hospital may be provided by a police department counselor. A report may be filed with the police regardless of whether or not the accused was a member of the ACC community.

If a decision is made to make a report to the police, it is important to note that police jurisdictions depend on where the sexual assault occurred.

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If the alleged incident occurred on campus, a report may be filed with the ACC District Police Department in person at any campus police department or by calling (512) 223-7999 (or dialing 222 from any campus phone).

If the alleged incident occurred in Austin, but off-campus, a report may be filed with the Austin Police Department (APD), regardless of time elapsed since the assault occurred. If a report is made to the police, a uniformed officer will be dispatched to the location to make a written report.

- Emergency: 911
- Victim Services (bilingual operators available): 512-974-5037
- Relationship violence (Family Protection Team): 512-974-8535
- Non-emergency stalking reports: 311

An individual who has experienced a sexual assault is strongly encouraged to seek medical and psychological care regardless of whether he/she intends to request a SAFE or report the assault to the police. He/she may be prescribed medications to prevent sexually transmitted infections and/or pregnancy regardless of whether the police were contacted or a SAFE was performed. Medical care can be provided at a local emergency room or by a private physician. Psychological support can be provided by SafePlace, or by a care provider of the individual's choosing.

An individual who experiences any form of sexual assault may pursue any civil or criminal remedies provided by state law. An individual does not need to file a criminal police report to either use on or off-campus resources or to file a complaint with the Title IX Coordinator.

ACC will, in a manner that is timely and that withholds as confidential the names and other identifying information of victims, report to the campus community on any crimes reported to a Responsible Employee that ACC considers to represent a threat to students and/or employees.

**VII. Use of Drugs and Alcohol**

Any student who files a complaint, or who acts as a third-party witness in an investigation under this rule, will not be subject to disciplinary action by the Office of the Dean of Students for using and/or consuming alcohol or drugs at or near the time of the alleged incident, provided that any such alcohol or drug use did not, and do not, place the health or safety of any other person at risk.

**VIII. Confidentiality and Anonymity**

Individuals wishing to remain anonymous can file a complaint (by telephone or in writing) with ACC's Title IX Coordinator. However, electing to remain anonymous may greatly limit ACC's ability to investigate an alleged incident, collect evidence, and/or take effective action against individuals or organizations accused of violating this rule.

ACC has an obligation to maintain an environment free of sex discrimination, thus many College employees have mandatory reporting and response obligations and may not be able to honor a complainant's request for confidentiality. In the event confidentiality cannot be maintained, ACC will share information only as necessary and only with people who need to know to fulfill the purposes of this rule and applicable law, such as investigators, witnesses, administrators, and the respondent. ACC will comply with the Family Educational Rights and Privacy Act (FERPA),



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with Texas Education Code Section 51.971 and other confidentiality laws as they apply to Title IX investigations. Finally, ACC may have an obligation to document the complaint or incident in publicly available recordkeeping, including Clery Act reporting and disclosures, but will do so without the inclusion of personally identifying information about the victim.

**IX. Victim's Rights and Options**

Regardless of whether a victim elects to pursue a criminal complaint or whether the offense is alleged to have occurred on or off campus, ACC will assist victims of prohibited conduct and will provide each victim with a written explanation of their rights and options.

Individuals who report a violation pursuant to this rule are entitled to:

- i. An effective internal investigation of complaints (using the preponderance of the evidence standard) separate from law enforcement or criminal proceedings.
- ii. The implementation of protective interim measures prior to the final outcome of the investigation (e.g.: schedule/room changes, parking assignment changes, safety protocols, etc.), if the complainant requests them and they are reasonably available.
- iii. Notification of the investigatory outcome.
- iv. Protection from retaliation.
- v. The right to file an appeal of any final action on a complaint under this rule.

Further, ACC complies with Texas law in recognizing orders of protection (emergency, interim, and plenary), no contact orders or civil no contact orders. Any person who obtains an order of protection, no contact order or civil no contact order from Texas or any reciprocal state should provide a copy to the ACC District Police Department and the Office of the Title IX Coordinator. A complainant may then meet with the Title IX Coordinator to develop a Safety Action Plan, which is a plan to reduce risk of harm to the victim while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom location or allowing a student to complete assignments outside of the classroom, etc.). ACC cannot apply for a legal order of protection, no contact order or civil no contact order for a victim from the applicable jurisdiction(s). The victim is required to apply directly for these services.

**X. Complaint and Investigative Process**

1. Students should report violations of this rule to the College's Title IX Compliance Officer:

Dr. Louella H. Tate  
ACC Title IX Compliance Officer  
Dean, Student Services  
Round Rock Campus  
4400 College Park Drive  
Round Rock, Texas 78665  
(512) 223-0046

[TitleIXcomplianceofficer@austincc.edu](mailto:TitleIXcomplianceofficer@austincc.edu)

Complaint forms are available at all campus manager offices or online at:

<http://www.austincc.edu/current/needtoknow/policies.php#rights>.

The complaint should be as specific as possible and include dates, times, places, witnesses, and specifics of what was said and done. The complaint should also list any requested interim measures and any final resolution that is acceptable to the student.

2. Students may also report violations of this rule to any Responsible Employee, as defined in this rule, (for example, an administrator, faculty member, or supervisory staff). When a Responsible Employee is informed of an alleged violation of this rule, the Responsible Employee is required to immediately notify ACC Title IX Coordinator of the allegation.
3. Once a report of prohibited conduct is received, ACC will respond promptly and investigate the report in a fair and impartial manner. Every Complainant and Respondent is entitled to due process, and ACC will handle reports of prohibited conduct consistently with procedural guidelines developed to ensure prompt and equitable resolution of such reports. Therefore, the College's investigation will include interviews with all relevant persons including the complainant, the Respondent, and other potential witnesses. The results of the investigation will determine the appropriate course of action. ACC will take steps to prevent recurrence of any prohibited conduct and to correct its discriminatory effects on the complainant and others, if appropriate.
4. The Title IX Compliance Officer shall coordinate with the appropriate Dean, and together they shall appoint an investigator. All investigators shall have appropriate and ongoing training, at least annually, regarding issues related to domestic violence, dating violence, sexual assault, sexual misconduct and stalking, as well as, on how to conduct an investigation that protects the safety of complainants and promotes accountability. ACC shall ensure that all disciplinary proceedings, including investigations, final actions, and appeals, shall be administered by officials who do not have a conflict of interest or bias for or against the Complainant or Respondent.
5. All complaints will be promptly investigated. Based upon an initial assessment of the allegations, the Title IX Compliance Officer may direct the appropriate Dean to implement any interim measures necessary to insure the safety and peace of mind of the student. Such measures may include, without limitation, separating the Complainant and Respondent, suspending the right of the Respondent to be present on campus and to attend classes, and otherwise altering the status of the student, pending the final outcome of the investigation. All complaints will be confidential to the extent permitted by law, and will be revealed only on a "need to know" basis (i.e. access to the information is necessary to the investigation and/or the safety of the accused and the accuser or required by law such as timely warning and notification requirements of the Jeanne Clery Act).
6. The investigator will review the written material submitted by the Complainant and meet with the Complainant in a private area to discuss the complaint as soon as possible, but in no event later than fifteen (15) college business days after the complaint has been received. The investigator will also meet with any witnesses and secure a witness statement from each witness. The investigator may consult with the appropriate Dean to identify alternative methods for resolving the complaint.

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7. The investigator will meet with all persons with information relevant to the complaint. If the complaint is filed against an individual, the person(s) against whom the complaint was filed should be given at least five (5) College business days to review the complaint and any relevant supporting documents, and to prepare a written response to the complaint prior to meeting with the investigator. At the meeting, the investigator should provide the person against whom the complaint was filed an opportunity to respond verbally to the complaint. The person(s) may also respond to the complaint in writing, and may identify additional witnesses the investigator should interview. The investigator will determine from this meeting whether additional witness interviews are warranted and if any additional information needs to be gathered or considered.
8. The Complainant and Respondent shall have the same opportunity to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. ACC shall not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, ACC may establish restrictions regarding the extent to which the advisor may participate in the proceedings. Any such restrictions shall apply equally to both parties.
9. After meeting with the person(s) against whom the complaint was filed, if any, gathering any additional information or witness statements, and concluding the investigation, the investigator will make a recommendation, in writing, to the Title IX Compliance Officer and the appropriate Dean. The standard of evidence that will be used in investigating and adjudicating complaints made under this rule is the “**preponderance of the evidence**” standard. This standard is met if the allegation is deemed more likely to have occurred than not. Possible conclusions of an investigation include: (1) a finding that the allegations are not warranted or could not be substantiated; or (2) a finding that the allegations are substantiated and constitute a violation of the rule. The recommendation will set forth the following: complaint, persons interviewed, documents reviewed, findings, conclusions, and recommendations. The investigation of the complaint should be concluded within twenty (20) College business days of the Title IX Compliance Officer’s receipt of the complaint.
10. The Dean and Title IX Compliance Officer may continue the investigation, or conduct additional investigative activities as may be reasonably needed. In any event, the investigation is considered “open” until the written final action document is issued.
11. The Dean, in consultation with the Title IX Coordinator will determine, based on the preponderance of the evidence, the final action to be taken on the complaint. A substantiated violation of this rule is a violation of the Student Standards of Conduct, subjecting the Respondent to the disciplinary sanctions outlined therein, up to and including expulsion from ACC. The Title IX Coordinator will also sign-off on the final action document indicating approval of the final action. If the Title IX Coordinator disagrees with the final action determined by the Dean, the Title IX Compliance Officer may submit a written position statement to the appropriate vice president in the event of an appeal.
12. The investigator or Dean shall provide simultaneous written notification to the Complainant and Respondent of the result of any institutional disciplinary proceeding that arises from a complaint of a violation of this rule, any change to that result, and the applicable procedures

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to appeal the result. Further, unless the Complainant elects not to do so, the investigator or Dean will also meet with the Complainant to discuss the outcome to the extent permitted by applicable federal and state law.

13. If dissatisfied with the resolution of the Complaint, either the Complainant or the Respondent, or both, may appeal the final action to the appropriate vice president. The appeal will be based upon the written complaint and response contained in the investigative record. The appeal should be resolved within ten (10) college business days of the date of the filing of the appeal. The decision of the Dean becomes final if neither party appeals within ten (10) college business days of receipt of notice of the final action. In the event of an appeal, the decision of the appropriate vice president is final and is not appealable any further within ACC.
14. The timeframes in this rule may be extended for good cause with written notice to the Complainant and the Respondent of the extension and the reason for the extension.
15. Students may also contact or make a complaint to:

**U.S. Department of Education (Office for Civil Rights)**

1999 Bryan Street, Suite 1620

Dallas, TX 75201-6810

214-661-9600

214-661-9587 (fax)

[OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov)

16. ACC employees wishing to report a violation of this rule should do so pursuant to ACC Administrative Rule 6.02.001.

**XI. Ongoing Training**

ACC's commitment to raising awareness of the harm resulting from the conduct prohibited in this rule includes offering ongoing education to both employees and students. In addition, the Title IX Compliance Officer, Deans, investigators, and hearing officers shall receive training each academic year about offenses, investigatory procedures, due process requirements, conducting a hearing and ACC policies related to or described in this rule. ACC is committed to protecting the safety of complainants and the due process of rights of all students, and promoting accountability.

**XII. State Law Definitions**

If a person would like to press criminal charges for an alleged violation of any of the below criminal laws, or would like to seek an order of protection, the definitions contained in the Texas Penal Code would apply; not the internal definitions used in this rule.

**Dating Violence:** “an act, other than a defensive measure to protect oneself, by an individual that is committed against a victim with whom the actor has or has had a dating relationship; or because of the victim’s marriage to or dating relationship with an individual with whom the actor is or has

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been in a dating relationship or marriage; and is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault. 'Dating relationship' means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of the length of the relationship; the nature of the relationship; and the frequency and type of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a 'dating relationship.'" Texas Family Code Section 71.0021.

**Domestic (Family) Violence:** "an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself, or abuse by a member of a family or household toward a child of the family or household, or dating violence." Texas Family Code Section 71.004.

**Sexual Assault:** "a person commits an offense if the person (1) intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or (2) intentionally or knowingly causes the penetration of the anus or sexual organ of a child by any means; causes the penetration of the mouth of a child by the sexual organ of the actor; causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

**Consent:** A sexual assault is without the consent of the other person if: the actor compels the other person to submit or participate by the use of physical force or violence; the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat; the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it; the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge; the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat; the actor is a public servant who coerces the other person to submit or participate; or the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor. 'Child' means a person younger than 17 years of age. 'Spouse' means a person who is legally married to another." Texas Penal Code Section 22.011.

**Prohibition of Sexual Discrimination or Sexual  
Violence or Sexual Harassment of Students****3.10.003**

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**Stalking:** “a person who, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that: (1) the person knows or reasonably believes the other person will regard as threatening including bodily injury or death for the other person, bodily injury or death for a member of the other person’s family or household or for an individual with whom the other person has a dating relationship, or fear that an offense will be committed against the other person’s property, and (2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property, and (3) would cause a reasonable person to fear bodily injury or death for himself or herself, or bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship, or fear that an offense will be committed against the person’s property. A fact finder may find that different types of conduct described above, if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct.” Texas Penal Code Section 42.072.

**XIII. Questions**

Questions regarding this Rule should be directed to ACC Title IX Coordinator or the Office of the Dean of Students.