

TBC Sexual Misconduct Policy

I. Purpose

Texas Barber College (TBC) is committed to equal opportunity and to maintaining a safe and healthy environment for all members of the TBC community (including students, faculty, staff), guests, and visitors. TBC's policies, programs, and activities are designed to foster courtesy and respect. TBC prohibits and seeks to eliminate all forms of Sexual Misconduct, including sexual harassment and sexual assault. Under federal law, TBC has a duty to take steps to prevent and redress Sexual Misconduct. Such conduct is contrary to TBC's values and is not tolerated.

This *Sexual Misconduct Policy* is applicable to all members of the TBC community, with respect to conduct that occurs on campus and conduct that occurs off campus that has an on-campus effect, including conduct in connection with TBC's barber program or that otherwise interferes with or limits the ability of a member of the community to participate in or to receive benefits, services, or opportunities from TBC's program.

This Policy sets forth the specific types of conduct that are prohibited, as well as outside resources and support services available to TBC community members who have been affected by such conduct. TBC encourages everyone affected by Sexual Misconduct, and everyone who suspects or witnesses such conduct, to report it and to seek help and support from available resources. TBC's policies and procedures are intended to ensure that all members of the TBC community who are affected by an incident or complaint of Sexual Misconduct receive appropriate support and fair treatment. TBC will take prompt and effective action to address allegations of Sexual Misconduct, and it will resolve complaints and reports in a prompt, fair and impartial manner.

Relevant terms are defined at the end of this Policy in Appendix A.

II. Statement of Non-Discrimination and Title IX

Title IX of the Education Amendments of 1972 ("Title IX") is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. As a recipient of Federal financial assistance from the U.S. Department of Education, TBC is subject to the requirements of Title IX. Consistent with Title IX, TBC does not discriminate against students, faculty, or staff based on sex in any of its programs or activities, including but not limited to educational programs and activities, employment, and admission.

TBC is committed to responding promptly and equitably when it learns of any form of possible discrimination based on sex, including but not limited to sexual harassment.

An individual who has inquiries about the application of Title IX and 34 C.F.R. Part 106 to TBC may be referred to TBC's Title IX Coordinator, the U.S. Department of Education – Officer of Civil Rights, or both:

Contact Information for TBC Title IX Coordinator

Anthony Reed, 8201 S. Gessner Road, Ste. A, Houston, Texas 77036; (713) 953-0262, ext. 1403;
Email address: titleixreports@txbarber.edu.

Contact Information for U.S. Department of Education Office of Civil Rights

Office for Civil Rights – U.S. Department of Education (OCR), Dallas Office, at (214) 661-9600. The web address for OCR is <http://www2.ed.gov/about/offices/list/ocr/index.html>.

Any person may report Sexual Misconduct, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator above, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

III. Scope of Policy

A. Scope

This *Sexual Misconduct Policy* and the Formal Complaint Process are intended to protect and guide individuals who have been affected by Sexual Misconduct, whether as a Complainant, a Respondent, or as a witness, and to provide fair and equitable procedures for investigation and resolution of Reports and Complaints.

Although Sexual Harassment is a type of Sexual Misconduct, this *Sexual Misconduct Policy* describes the procedures that apply to allegations of Sexual Misconduct falling outside the definition of Sexual Harassment, which as of August 14, 2020 is defined in the Title IX Amendments, 34 C.F.R. § 106.30 as the following:

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

- (1) An employee of TBC conditioning the provision of an aid, benefit, or service of TBC on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to TBC's education program or activity; or

(3) “Sexual assault” as defined in [20 U.S.C. 1092\(f\)\(6\)\(A\)\(v\)](#), “dating violence” as defined in [34 U.S.C. 12291\(a\)\(10\)](#), “domestic violence” as defined in [34 U.S.C. 12291\(a\)\(8\)](#), or “stalking” as defined in [34 U.S.C. 12291\(a\)\(30\)](#).¹

TBC policies and procedures for addressing allegations of Sexual Harassment, including but not limited to the rights of the accused (i.e., the Respondent), are contained in TBC’s *Sexual Harassment – Title IX – Policies & Procedures*, which can be accessed via the following link: <https://txbarber.edu/wp-content/uploads/2021/09/Title-IX-Sexual-Harassment-Policies-Procedures-2.pdf> as well as via the ADM student portal dashboard and ADP TotalSource for employees. Hard copies of TBC’s *Sexual Harassment – Title IX – Policies & Procedures* can be obtained via the Corporate Office by calling (713) 953-0262, ext. 1407 or in person from a Student Services Representative. The *Sexual Harassment – Title IX – Policies & Procedures* apply to “sexual harassment” in a TBC “education program or activity” against a person in the United States. 34 C.F.R. § 106.44(a).

When unwelcome conduct on the basis of sex meets one or more of the three definitions of Sexual Harassment set forth above, the conduct is considered to be Sexual Harassment under the 2020 amendments. Here is some additional information about each category:

- The first category is commonly referred to as “quid pro quo” sexual harassment, meaning that a school employee offers something to an individual in exchange for sexual conduct.
- The second category incorporates the definition of sexual harassment set out by the Supreme Court in a case about when a school may be required to pay financial compensation in a lawsuit for sexual harassment by one student toward another student. The case is *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999).
- The third category refers to definitions in the Clery Act and the Violence Against Women Act (VAWA). The Clery Act is a federal law that requires colleges and universities that participate in the federal student financial aid programs to provide current and prospective students and employees, the public, and the Department with crime statistics and information about campus crime prevention programs and policies. VAWA is a federal law administered by the U.S. Departments of Justice (DOJ) and Health and Human Services (HHS) that supports comprehensive responses to domestic violence, sexual assault, dating violence, and stalking.

Whether this Policy or the *Sexual Harassment – Title IX – Policies & Procedures* applies depends in part on the kind of conduct alleged and the setting where it is alleged to have occurred. As noted above, when Sexual Misconduct meets the criteria specified in the Title IX Amendments, effective August 14, 2020, it must be addressed under the *Sexual Harassment – Title IX – Policies & Procedures*, and not this broader Sexual Misconduct Policy, to the extent the processes differ.

In the event of a Complaint submitted pursuant this *Sexual Misconduct Policy*, a determination will be made as to whether it is Sexual Misconduct that is within the jurisdiction of the Title IX

¹ These terms are defined in the Definitions section below, see [Appendix A](#).

Amendments effective August 14, 2020, and thus should be subject to the *Sexual Harassment – Title IX – Policies & Procedures*, or if it is Sexual Misconduct that is not within the jurisdiction of those Amendments, allowing for application of the policies and procedures set forth in this Policy.

“Sexual Misconduct” prohibited by this Policy includes sex-based conduct beyond the Title IX Amendments’ Sexual Harassment definition. Examples may include sexual exploitation and many forms of verbal harassment that may not meet the Title IX Amendments’ definition of Sexual Harassment.

The Grievance Process in the *Sexual Harassment – Title IX – Policies & Procedures* applies to a narrower set of circumstances than this Policy. The Grievance Process applies to a TBC “education program or activity,” which is defined by the Title IX Amendments to include locations, events, or circumstances where TBC exercises 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 TBC. Under the Title IX Amendments, the Grievance Process does not apply to any “education program or activity” that does not occur in the United States. (§ 106.44(a).)

Sexual Misconduct that is not covered by the *Sexual Harassment – Title IX – Policies & Procedures*, such as off-campus Sexual Misconduct alleged to have an on-campus effect, may be addressed under this Sexual Misconduct Policy.

B. Overview of Policy and Certain Key Definitions.

TBC is authorized under this Sexual Misconduct Policy and its accompanying Formal Complaint Process to take certain actions to address or remedy Sexual Misconduct after receiving a report of Sexual Misconduct (“Report”), during an investigation, and after an investigation even if the matter does not proceed to an adjudication. Anyone can report an incident of Sexual Misconduct to TBC under the procedure described in Section V of this Policy. For example, a “Reporter” can be any individual who reports to TBC that they are a victim or survivor of Sexual Misconduct or that they have been affected by Sexual Misconduct (sometimes referred to as a “First-Party Reporter”) or that they have knowledge of Sexual Misconduct happening to or affecting someone else (sometimes referred to as a “Third-Party Reporter”).

A Report becomes a “Complaint” if a First-Party Reporter files a written document with the Title IX Coordinator describing an incident of Sexual Misconduct and indicating that they want TBC to take further steps, such as a full investigation and possibly holding an adjudication to resolve the matter. TBC can also convert a Report to a “Complaint” if TBC determines that, in order to meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader TBC community, it must take further steps to address and resolve the matter. A Formal Complaint under the Formal Complaint Process is a type of Complaint.

A “Complainant” refers to an individual who is alleged to have been subjected to an incident of Sexual Misconduct (i.e., a First-Party Reporter or a victim or person who has otherwise been affected by Sexual Misconduct, or under the Formal Complaint Process, an individual who is

alleged to be the victim of conduct that could constitute sexual harassment). A Complainant has certain rights under this Policy, as discussed below.

A Reporter who reports Sexual Misconduct happening to or affecting someone else (i.e., a Third-Party Reporter) can file a Report and request that it be treated as a Complaint, but that does not make them a Complainant. Similarly, the fact that the Title IX Coordinator converts a Report to a Complaint does not make the Title IX Coordinator a Complainant.

A “party” to a case may refer to a Complainant, a Respondent, or a third party.

A “Respondent” refers to an individual who has been accused of conduct that could constitute Sexual Misconduct prohibited under this Policy (or, under the Formal Complaint Process, an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment). A Respondent has certain rights under this Policy, as discussed below, and under the Formal Complaint Process when that policy is applicable.

A “third party” refers to any other participant in the process, including a witness to the incident or an individual who makes a Report on behalf of someone else.

IV. Reporting

Options and Procedures for Reporting or Disclosing Title IX Incidents of Sexual Misconduct

General

Anyone can report an incident of Sexual Misconduct to TBC. A Report can be made by any individual who has experienced Sexual Misconduct, who has been affected by Sexual Misconduct, or who has knowledge of Sexual Misconduct happening to or affecting someone else. A Report may be made anonymously (see below).

TBC strongly encourages all individuals to report incidents of Sexual Misconduct even if the individual does not intend to pursue a Complaint. Even if TBC does not have jurisdiction over the Respondent, TBC may take prompt action to provide supportive measures for the safety and well-being of any affected person and the broader TBC community. No person should assume that an incident has already been reported by someone else or that TBC already knows about a particular situation.

Reporting to “Responsible Employees” – Formal Complaint

To make a Report to TBC, a reporting individual may do one or more of the following:

1. Report the incident to the Title IX Coordinator via email to titleixreports@txbarber.edu, in person, via the online reporting form, by mail, or by phone. (See above for the Title IX Coordinator’s contact information.) Responsible

Employees should direct their Reports to the Title IX Coordinator. Other Reporters are encouraged, but not required, to direct their Reports to the Title IX Coordinator.

2. Report the incident to a Responsible Employee other than the Title IX Coordinator. Generally, a TBC manager to whom a community member reports an incident of Sexual Misconduct is a Responsible Employee. A non-exhaustive list of Responsible Employees is set forth below. If a person chooses to make an initial report to any Responsible Employee other than the Title IX Coordinator, the Responsible Employee must refer the information to the Title IX Coordinator because he has responsibility for responding to Reports of Sexual Misconduct.

A “Responsible Employee” is a TBC employee who has the authority to redress Sexual Misconduct, who has the duty to report incidents of Sexual Misconduct or other misconduct, or who a person could reasonably believe has this authority or duty.

Once the information is received by the Title IX Coordinator, it will constitute a Report. Responsible Employees are required by TBC to report to the Title IX Coordinator any knowledge they receive of possible violations of this Policy.

When a Complainant tells a Responsible Employee about an incident of Sexual Misconduct, the Complainant has the right to expect TBC to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged Sexual Misconduct shared by the Complainant, and the Title IX Coordinator will need to determine what happened – including the names of the Complainant and Respondent(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling TBC’s response to the report and those persons interviewed as part of the investigation, including without limitation, the Respondent(s). A Responsible Employee should not share information with law enforcement without the Complainant’s consent or unless the Complainant has also reported the incident to law enforcement.

Responsible Employees must relay all known information about any reported Policy violation, including but not limited to:

- (i) the names of involved individuals; (ii) the nature of the incident, and (iii) the time and location of the incident.

If a Responsible Employee believes a person may intend to share any information regarding an instance of Sexual Misconduct, the Responsible Employee should seek to confirm that the reporting party understands the Responsible Employee’s reporting obligations. If the reporting

party would prefer to remain anonymous, the Responsible Employee should direct the reporting party to a report anonymously. (See below for information about anonymous reporting.)

The following employees (or categories of employees) are TBC's Responsible Employees:

- **Title IX Coordinator.** Any incident of Sexual Misconduct can be brought to the attention of the Title IX Coordinator, who, along with any administrator(s) he appoints, will begin the investigative process.
- **Campus Directors/Managers/Supervisors/Corporate Officers.** Any incident of Sexual Misconduct can be brought to the attention of a Campus Director, supervisory employee, or corporate officer, who will promptly inform the Title IX Coordinator of the complaint.
- **Corporate Office.** A complaint of Sexual Misconduct can be brought to the Executive Administrative Assistant in the Corporate Office. He/she will promptly inform the Title IX Coordinator of the complaint.

Once the Title IX Coordinator learns of any Report of alleged Sexual Misconduct, whether from a direct Report or from a Responsible Employee, he will implement supportive measures as needed and initiate an investigation into the alleged incident. The form of the investigation will vary, but might follow TBC's Formal Complaint Process. Following an investigation, which includes assessment of the allegations, the Title IX Coordinator has authority to resolve a Report, including the implementation of any supportive measures, and close the case if the Report does not constitute or become a Complaint.

In all cases of alleged Sexual Misconduct under this Policy reported to the Title IX Coordinator, TBC will investigate and implement supportive measures. Please note that TBC's ability to investigate and respond fully to an incident may be limited because of requests for confidentiality or to not proceed with disciplinary action.

After making a Report, an individual may choose to file or request a Complaint and pursue resolution (under this policy or the Formal Complaint Process, as applicable) or, if applicable, an Informal Resolution involving the Respondent; may choose to be involved in TBC's investigation and any related proceedings; or may choose to end involvement in the process.

TBC does not provide on-campus professional or pastoral counseling, victim advocacy, mental health, legal assistance, or other similar services for victims of Sexual Misconduct. Thus, TBC does not provide resources with whom communications with a Complainant are considered "privileged," thereby ensuring near complete confidentiality. However, the following describes the options available to a Complainant at TBC and the extent to which the communication is treated as confidential.

Reporting to the Student Services Department – Informal Complaint – Limited Confidential Resource

Although individuals who work at TBC in the Student Services Department are not licensed professionals, they can generally talk to any person impacted by Sexual Misconduct without revealing any personally identifying information about an incident to others within TBC. A person can seek assistance and support from a Student Services Representative without initiating a Report to TBC that could reveal that person's identity or that the person has disclosed the incident. However, a person who self-discloses to a Student Services Representative that the person engaged in a possible violation of this Policy may not be covered by limited confidentiality.

Without disclosing personally identifying information about the victim, the Student Services Representative will notify the Title IX Coordinator of the nature, date, time, and general location of an incident. This notification helps keep the Title IX Coordinator informed of the general extent and nature of Sexual Misconduct on and off campus, and allows for tracking patterns, evaluating the scope of the problem, and formulating appropriate campus-wide responses. The Student Services Representative will also notify the Title IX Coordinator of the name of the alleged perpetrator, if known, when the alleged perpetrator is affiliated with TBC as a faculty member, staff member, independent contractor, or in any other similar capacity, other than as a student. (However, the Title IX Coordinator in most cases cannot proceed to investigate the matter under the Title IX Amendments in the absence of a Formal Complaint.)

The Student Services Representative can assist in providing additional information, including potentially identifying information, to the Title IX Coordinator, if the victim so wishes. Anyone who at first notifies a Student Services Representative may later decide to make a report to the Title IX Coordinator or law enforcement. A Student Services Representative can assist a victim with supportive and protective measures; however, the provision of supportive measures that involve a non-confidential TBC department or impact another person may require the disclosure of identifying information to the relevant department and person as well as the Title IX Coordinator.

While a Student Services Representative may maintain a victim's confidentiality vis-a-vis TBC, he/she may have reporting obligations under state and federal law. In addition, if a Student Services Representative determines that the respondent poses a serious and/or immediate threat to the TBC community (based on, for example, the nature and severity of the incident or a pattern of alleged misconduct), the Student Services Representative will disclose all relevant information to the appropriate TBC authorities, including, but not limited to, the Title IX Coordinator.

The Student Services Representative will provide non-identifying information, similar to that provided to the Title IX Office, to TBC's General Counsel for crime statistics reporting under the Clery Act. The information reported may result in the issuance of a timely warning or security notice to the community, but the warning will not include any information that identifies the victim.

The following is contact information for these non-professional TBC resources:

Houston Student Service Representatives:

**8201 S. Gessner Rd., Ste. A,
Houston, TX 77036**

**4473 North Freeway
Houston, TX 77022**

713.953-0262, exts. 1436 and 1426

Dallas Student Service Representative:

**9888 Ferguson Road, Suite 101
Dallas, TX 75228**

**5148 S. Lancaster Road
Dallas, TX 75228**

214-943-7255, ext. 1106

In addition, any member of the TBC community who has experienced Sexual Misconduct may seek immediate and/or ongoing assistance from one or more of the resources listed in Appendix B to this Policy. The resources listed should provide assistance whether or not the individual chooses to make a report to the Title IX Coordinator or law enforcement, or to participate in an investigation.

A Complainant who speaks to a Student Services Representative must understand that, if the Complainant wants to maintain confidentiality, in most cases, TBC will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Even so, a Student Service Representative will still assist the victim in obtaining information about outside resources for protection and support, such as victim advocacy and disability, health or mental health services. The Student Services Representative can also assist with academic support or accommodations, campus transfers, and other reasonable changes to the academic environment. (Please note: If notifying a Responsible Employee of the alleged Sexual Misconduct is necessary to carry out any such changes, the request may trigger TBC's Title IX obligation to investigate.) A victim who at first requests confidentiality may later decide to file a complaint with a Responsible Employee or report the incident to local law enforcement, and thus have the incident fully investigated. The Student Services Representatives will provide the Complainant with assistance if the Complainant wishes to do so.

NOTE: While the Student Services Representatives may maintain a victim's limited confidentiality vis-à-vis TBC, they may have reporting or other obligations under state law. For example, Texas law requires anyone with knowledge of suspected child abuse or neglect to immediately report it to the proper authorities. In addition, there

are instances in which a person is required to report someone who poses imminent harm to self or others. Student Services Representatives could also be required to testify about their communications with a Complainant or provide any documentation relating to the report if subpoenaed in a court case.

Additional Reporting Options.

Reporting to Off-campus Counselors and Advocates

TBC does not provide on-campus professional counseling, victim advocacy, mental health, legal assistance, or other similar services for students or employees. Off-campus counselors, advocates, and health care providers will generally maintain confidentiality and not share information with TBC unless the Complainant requests the disclosure and signs a consent or waiver form. (See list of Outside Resources with contact information in Appendix B of this Policy.)

Reporting to Off –Campus Police

An individual may report an incident of Sexual Misconduct by: (i) notifying local police or the a Responsible Employee; (ii) being assisted by TBC representatives in notifying law enforcement if the individual so chooses; or (iii) declining to notify local police and/or TBC representatives. Although TBC encourages reporting Sexual Misconduct to the police, a Complainant may request administrative action by TBC with or without the filing of a police report. A Complainant may proceed with a criminal investigation and an internal TBC complaint simultaneously. In the event a law enforcement agency has requested TBC delay its investigation until the agency has had an opportunity to collect evidence, TBC will do so, but will begin its investigation promptly upon the agency’s completion of its evidence gathering process. TBC will not wait for the conclusion of a criminal investigation to begin its own investigation.

Anonymous and/or Confidential Reporting

A person can make an anonymous or confidential report via regular mail to the Corporate Office at 8201 S. Gessner Rd., Ste. A, Houston, TX 77036 or via email at titleixreports@txbarber.com, but should know that, during the course of an investigation, his or her identity may be discovered. If that occurs, the reporter will receive the same confidentiality safeguards offered to those who make a formal report under this Policy, including protection of third party complainants against retaliation.

V. Filing a Complaint of Sexual Misconduct

If an individual wishes to pursue an incident of Sexual Misconduct beyond simply reporting it, he/she may file a Complaint. The filing of a Complaint means that the individual is asking TBC to take further steps, such as a full investigation and possibly holding an adjudication to resolve the alleged issue. Any Complainant (i.e., an alleged victim or survivor or someone who has otherwise been directly affected by Sexual Misconduct) may file a Complaint, and TBC will treat it as such. Any Third-Party Reporter may request that TBC treat their Report as a Complaint, but that request would not make the Third-Party Reporter into a Complainant,

and TBC has discretion on whether to treat the Third-Party Report as a Complaint. To meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader TBC community, TBC may convert a Report into a Complaint if TBC determines that it must take additional steps to protect the TBC community. Depending on the conduct alleged and the location of the incident, a Complaint will be governed by either this Policy or the accompanying Formal Complaint Process. A Formal Complaint under the Formal Complaint Process is a type of Complaint.

A. Filing a Formal Complaint

If the Complainant wishes to pursue a formal Sexual Misconduct complaint, s/he will be asked to complete a Formal Complaint Questionnaire and submit it to the Title IX Coordinator. Complainants must be in writing and include all information that the filer believes to be relevant (e.g., time, location and nature of incident, names of individuals involved in or witnesses to the incident, names of other persons affected by the incident, etc.). Alternatively, an individual can file a Complaint by meeting with the Title IX Coordinator or designee and providing a verbal description of the Sexual Misconduct, which the Title IX Officer will use to draft a written document that the individual will review, verify and sign to constitute a Complaint.

B. Action Following the Filing of a Complaint.

TBC will investigate all Complaints of Sexual Misconduct. A Complaint meeting the criteria of the Formal Complaint Process (a “Formal Complaint”) will proceed according to that Process instead of the provisions below. For a Complaint that does not meet the criteria of the Formal Complaint Process, TBC’s process will typically involve an investigation phase and some subsequent process to determine whether this Policy has been violated.

The Title IX Coordinator and other appropriate TBC administrators will begin an investigation upon receipt of notice of alleged Sexual Misconduct. They will attempt to interview the Complainant, the Respondent and any witnesses, as appropriate. Both parties to the complaint will be given an equal opportunity to present witnesses and other relevant evidence. They will also gather and review any information deemed pertinent, as well as any information submitted by the Complainant, the Respondent and/or any witnesses. The Title IX Coordinator will inform the Complainant and the Respondent at regular intervals of the status of the investigation. The Title IX Coordinator will receive training at least annually on the issues related to Sexual Misconduct, and how to conduct an investigation that protects the safety of victims and promotes accountability. In some instances, an Informal Resolution also may be an option for resolving a Complaint.

Within five (5) business days after receiving a complaint, TBC will contact the Respondent to obtain the Respondent’s response. The response is due to TBC within ten (10) business days from the Respondent’s receipt of the complaint. The response should address and respond to the specific allegations made in the complaint and can include any other rebuttal information. Failure to respond may be considered a separate violation of this Policy and may result in disciplinary action. Mediation is not an option for resolution in cases involving allegations of sexual assault and violence, and only will be considered as an option for any other type of Sexual Misconduct

allegation upon request by the Complainant. In addition, Complainants will not be required to resolve the problem directly with the Respondent.

TBC will issue a written finding to the Complainant and Respondent of the outcome of the complaint as soon as practicable, making every effort to issue its finding within sixty (60) business days from its receipt of the complaint. The finding will be determined by a preponderance of the evidence; that is, whether it is more likely than not that the Respondent violated this Policy. If TBC determines that this Policy was violated, TBC will recommend appropriate action in an effort to eliminate Sexual Misconduct from happening, prevent its recurrence and address its effects. Even if TBC determines that this Policy was not violated, TBC may take certain measures, such as recommending that the Respondent undertake educational initiatives and/or trainings. TBC will simultaneously notify the Complainant and the Respondent in writing of the outcome of its finding and any appeal rights under this Policy, to the extent permissible by law.

TBC will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate. Possible sanctions or protective measures TBC may impose following a final determination of an institutional disciplinary proceeding regarding harassment or discrimination are the following: (i) written disciplinary warning; (ii) disciplinary probation; (iii) suspension of rights and privileges; (iv) suspension from school if a student or unpaid suspension if a TBC employee; (v) expulsion from School, or termination of employment in the case of a TBC employee; (vi) prohibition of any interaction between the victim and the accused and/or a requirement that they maintain a specified distance apart; (vii) refusal to service a client at a TBC campus; or (viii) termination of services with a third party vendor.

If an employee is found to have violated this Policy, TBC will take appropriate action, and any sanction imposed on the employee will be implemented consistent with the TBC Employee Handbook. If the employee is no longer employed, TBC will take steps to end the prohibited behavior, prevent its recurrence, and address its effects.

If a student is found to have violated this Policy, TBC will take appropriate action, and any sanction imposed on the student will be implemented consistent with TBC's policies and procedures related to student conduct/discipline. If the student is no longer enrolled, TBC will take steps to end the prohibited behavior, prevent its recurrence, and address its effects.

Where the Formal Complaint Process does not apply, the Title IX Coordinator will have discretion to resolve a Complaint, without additional fact-finding or a determination of responsibility, in the following circumstances: (1) if TBC lacks jurisdiction; (2) if a case involves a TBC employee (including faculty, staff member, or contract services employee), the Title IX Coordinator will coordinate with the designated person in the Corporate Office about appropriate processes and/or resolution; (3) if the allegations could not constitute a Policy violation under any alleged circumstances; (4) if the Complaint is eligible for the Informal Resolution process and the Complainant and Respondent both consent to participate in the Informal Resolution process, with such consent obtained independently from each person by the Title IX Coordinator to avoid a risk of coercion; (5) if the Complaint was requested by a Third-Party Reporter who reported witnessing

Sexual Misconduct happening to or affecting someone else, the Title IX Coordinator will have discretion to resolve the Complaint or to provide modified hearing procedures, particularly to account for the alleged victim's wishes (e.g., if they do not wish to pursue the Complaint as a First-Party Complainant); (6) if either Complainant or Respondent, or both, cease to be a TBC student or employee prior to final resolution of the Complaint (e.g., a student withdrawal or employee is no longer employed by TBC), the Title IX Coordinator will have discretion to resolve the Complaint or to provide modified hearing procedures; or (7) if the Respondent admits responsibility for a violation, the Title IX Coordinator will have discretion to resolve the Complaint or to provide modified procedures to help the relevant decision-maker determine appropriate sanctions.

In all circumstances, the Title IX Coordinator will have authority to provide supportive measures and make accommodations consistent with this Policy and take other measures consistent the TBC Student Handbook; and for employee matters, the President or his/her designee shall have authority to take action consistent with the TBC Human Resources policies.

A person may withdraw a Complaint. If a Complaint is withdrawn, TBC will assess the information provided as it would any Report and proceed accordingly.

VI. RETALIATION

TBC takes reports of Sexual Misconduct very seriously and will not tolerate retaliation against those who make such reports or participate (or refusing to participate) in any Title IX grievance process. Neither TBC nor any other 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 this Policy, 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 policy and procedure and/or code of conduct violations that do not involve sex discrimination or Sexual Misconduct, 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 Misconduct, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

VII. RISK REDUCTION

Use of Alcohol or Other Drugs

Alcohol or other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and effectively given. The perspective of a reasonable person will be the basis for determining whether one knew or should have known about the impact of the use of alcohol or drugs on another's ability to give consent. Being intoxicated or high is never an excuse for engaging in Sexual Misconduct.

Risk Reduction Strategies

Acts of Sexual Misconduct not only devastate their victims, but also the campus communities where they occur. For these reasons, TBC shall engage in risk reduction strategies emphasizing the collective responsibility of the campus community to reduce the risk of Sexual Harassment. As a part of that effort, orientation for every new student and employee shall include information about Sexual Harassment and how to prevent it. The information will provide resources, including guidance about bystander intervention and this Sexual Harassment policy. Common sense, situational awareness and trusting your instincts will reduce your risk of being subjected to Sexual Harassment.

Risk reduction strategies include, but are not limited to, the following:

- A. If you consume alcohol, do so in moderation;
- B. Do not leave your beverage unattended or accept a drink from an open container;
- C. When you are with someone, communicate clearly to ensure he or she knows your limits from the beginning (both verbal and nonverbal (body language) communication can be used to ensure the message is understood);
- D. If you go on a date with someone you do not know very well, tell a close friend what your plans are;
- E. You have the right to say "No" even if you first say "Yes" and then change your mind, have had sex with this partner before, have been kissing or "making out" or are wearing what is perceived to be "provocative" clothing;
- F. Always have extra money to get home and have a plan for someone you can call if you need help;
- G. If you feel uncomfortable, scared or pressured, act quickly to end the situation by saying "Stop it" and leave or call for help;
- H. When you go to a party, go with a group of friends, arrive together, watch out for each other and leave together;
- I. Be aware of your surroundings at all times;
- J. Do not allow yourself to be isolated with a person you do not know or trust;
- K. Travel with a friend or in a group;
- L. Walk only in lighted areas after dark;
- M. Keep the doors to homes and cars locked;
- N. Know where a phone is located.

Bystander Intervention

One of the most effective methods of preventing sexual assault is bystander intervention, which encourages people to identify situations that might lead to Sexual Harassment and then safely intervene to prevent misconduct from occurring.

Recognizing when to intervene

Some people might be concerned that they are being encouraged to place themselves in jeopardy to stop crimes in progress. This is not the case. There are many situations and events that occur

prior to Sexual Harassment that are appropriate for intervention. Bystander intervention encourages people to watch for those behaviors and situations that appear to be inappropriate, coercive and harassing.

Responsibility to intervene

It is every person's responsibility to take safe and reasonable actions to prevent Sexual Harassment.

Ways to intervene

- A. Making up an excuse to get a person out of a potentially dangerous situation;
- B. Letting an individual know that his or her actions may lead to serious consequences;
- C. Not leaving a person's side who may be in trouble despite the efforts of someone else to get him/her alone or away from you;
- D. Using a group of friends to remind someone behaving inappropriately that his or her behavior should be respectful;
- E. Taking steps to curb someone's use of alcohol before problems occur;
- F. Calling the authorities when the situation warrants;
- G. Understanding how to safely implement the choice; and
- H. Safety is paramount in bystander intervention. Usually, intervening in a group is safer than intervening individually. Also, choosing a method of intervention that de-escalates the situation is safer than attempting a confrontation. However, there is no single rule that can account for every situation. Please use good judgment and always put safety first.

APPENDIX A

DEFINITIONS

Complaint: Refers to a written complaint filed with the Title IX Coordinator alleging any action, policy, procedure or practice that would be prohibited by this Policy and indicating that they want TBC to take further steps, such as a full investigation and possibly holding an adjudication to resolve the alleged issue. A Complaint may be filed by a Complainant. A third-party who knows of or witnessed an incident of Sexual Misconduct but who did not suffer such misconduct themselves may request that TBC treat their Third-party Report as a Complaint. TBC can convert a Report to a Complaint if TBC determines that, in order to meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader TBC community, it must take further steps to address and resolve the matter. A Formal Complaint under the Formal Complaint Process is a type of Complaint.

Complainant means an individual who is alleged to have been subjected to an incident of Sexual Misconduct (i.e., a First-Party Reporter or a victim or person who has otherwise been affected by Sexual Misconduct, or under the Formal complaint process governing sexual harassment, an individual who is alleged to be the victim of conduct that could constitute sexual harassment). A Reporter who reports witnessing Sexual Misconduct happening to or affecting someone else (i.e., a Third-Party Reporter) can file a Report and request that it be treated as a Complaint, but that does not make them a Complainant. Similarly, the fact that the Title IX Coordinator may convert a Report to a Complaint does not make the Title IX Coordinator a Complainant.

Consent means a voluntary and positive agreement between the participants to engage in sexual activity. Consent to sexual activity may be communicated in a variety of ways, but one should presume that consent has not been given in the absence of a clear, positive agreement between the participants. While verbal consent is not an absolute requirement for consensual sexual activity, verbal communication prior to engaging in sexual activity helps to clarify consent and avoid any misunderstandings.

Consent must be clear and unambiguous for each participant at every stage of a sexual encounter. A prior relationship does not indicate consent to future activity. A person who is asleep or mentally or physically incapacitated, either through the effect of drugs, alcohol, or for any other reason, is not capable of giving valid consent. The use of alcohol or drugs may seriously interfere with the participants' judgment about whether consent has been sought and given.

Dating Violence: violence committed by a person:

- a) Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
- b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship
 - ii. The type of relationship
 - iii. The frequency of interaction between the persons involved in the relationship

Domestic (Family) Violence: domestic (family) violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as 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 a complainant who is protected from that person's acts under the domestic or family violence laws of the State of Texas.

Respondent: Refers to an individual who has been accused in a Report or Complaint of conduct that could constitute Sexual Misconduct prohibited under this Policy (or, under the Formal Complaint Process governing sexual harassment, an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment).

Sexual Assault: actual or attempted sexual contact with another person without that person's *consent*. Sexual assault includes, but is not limited to:

- Intentional touching of another person's intimate parts without that person's *consent*;
- Other intentional sexual contact with another person without that person's *consent*;
- Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's *consent*;
- *Rape*, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent (The legal definition of sexual assault in Texas can be found at <http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm#22.011>);
- Use of coercion, manipulation or force to make someone else engage in sexual touching, including breasts, chest and buttocks;
- Engaging in Sexual Activity with a person who is unable to provide consent; or
- Knowingly transmitting a sexually-transmitted disease to another.

Sexual Misconduct: Is a broad term that includes Sexual Harassment defined by the Title IX Amendments and also encompasses other sexually-motivated or gender-biased misconduct beyond sexual harassment that causes harm to the school environment. Examples may include sexual exploitation, sexual intimidation, and many forms of verbal harassment that may not meet the Amendments' definition of "sexual harassment."

Sexual Misconduct is conduct that is unwanted or unwelcome and is sexual in nature. Experiencing Sexual Misconduct may interfere with a TBC community member's ability to perform a job, participate in activities, and/or participate fully in TBC's barber program. Sexual Misconduct is demeaning to others and undermines the integrity of the employment relationship and/or learning environment by creating an intimidating, hostile or offensive working or academic environment through verbal or physical conduct of a sexual nature. Sexual Misconduct is prohibited regardless of whether it occurs between or among members of any sex. Sexual Misconduct may also consist of inappropriate gender-based comments and gender stereotyping, even if the acts do not involve conduct of an overtly sexual nature.

Sexual Exploitation: Occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or the benefit of anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to:

- o Non-consensual video or audio-taping of sexual activity or other private activity, even if that activity occurs in a public or semi-public place;
- o Non-consensual dissemination of video, photographs, or audio of sexual activity or other private activity, including dissemination by a third party or a person not involved in the original conduct;
- o Exceeding the boundaries of consent (such as, permitting others to hide in a closet and observe consensual sexual activity, videotaping of a person using a bathroom or engaging in other private activities);
- o Engaging in voyeurism, exposing one's breasts, buttocks, or genitals in a non-consensual circumstance or inducing another to expose their breasts, buttocks, or genitals without effective consent;
- o Prostituting another person;
- o Engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease or infection (STD or STI) and without informing the other person of such disease or infection; and
- o Sexually-based stalking and/or bullying.

Sexual Intimidation: involves a) Threatening another with a non-consensual sex act; b) Stalking or cyber-stalking; or c) Engaging in indecent exposure.

Stalking: stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a) Fear for his or her safety or the safety of others; or
- b) Suffer substantial emotional distress.

Title IX: Refers to a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX prohibits the use of federal money to support sex discrimination in education programs and provides individual citizens effective protection against those practices.

Title IX Coordinator means the person(s) who has been designated and authorized to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is responsible for conducting the investigation of reports of violations of Title IX as well as Formal Complaints and is available to discuss options, explain TBC policies and procedures and provide education on relevant issues. The Title IX Coordinator may designate one or more Title IX personnel (“Assistant Title IX Personnel”) to assist with the policies or procedures in this Policy. The Title IX Coordinator for TBC is:

Anthony Reed, Director of Barbering, 8201 S. Gessner Rd., Ste. A, Houston, TX 77036; (713) 953-0262, ext. 1403; titleixreports@txbarber.com

Title IX Amendments: The U.S. Department of Education enacted revised Title IX Amendments (Part 106 of Title 34 of the Code of Federal Amendments), effective August 14, 2020, that are binding on TBC under certain circumstances involving sexual harassment, as that term is defined by the Amendments. The most extensive changes to the Title IX Amendments appear in 34 C.F.R. §§ 106.30, 106.44 and 106.45.

APPENDIX B

OUTSIDE RESOURCES

TBC does not provide on-campus professional counseling, victim advocacy, mental health, legal assistance, or other student services for Complainants. Off-campus counselors, advocates, and health care providers should generally maintain confidentiality and not share information with TBC unless the Complainant requests the disclosure and signs a consent or waiver form.

The following are 24-hour hotlines for outside support:

- Houston Area Women’s Center.....713-528-7273
- Houston Crisis Hotline.....713-468-5463
- Dallas Area Rape Crisis Center.....972-641-7273
- Dallas Crisis Hotline.....972-233-2233
- National Domestic Violence Hotline.....800-799-SAFE (7233)

In addition, reports of sexual assault can be made to local police departments for each campus, which can be contacted at the following phone numbers:

- Houston Police Department – Sex Crimes Unit713-308-1180
- Dallas Police Department – Sexual Assault Unit..... 214-671-3584

ADDITIONAL OUTSIDE RESOURCES INCLUDE THE FOLLOWING:

LOCAL RESOURCES: HOUSTON AREA

Houston Domestic Violence Hotline

713.528.2121

TDD 713.528.3625

Toll Free 800.256.0551

Houston Sexual Assault Hotline

713.528.RAPE (7273)

TDD 713.528.3691

Toll Free 800.256.0661

The Bridge Over Troubled Waters

713.473.2801

The Bridge exists to assist women, children and men in crisis, particularly those who have been affected by domestic violence, sexual assault or homeless situations. Violence issues are rampant across the United States and throughout all ethnic, educational and socioeconomic lines.

Family Time Crisis and Counseling Center

281.446.2615

Located in Humble, Texas, Family Time provides: 1) Free counseling and support groups for Complainants of abuse.; 2) A 24-hour crisis helpline, 3) “The Door,” an emergency shelter for domestic violence Complainants and their children; 4) Hospital accompaniment for sexual assault Complainants provided by trained advocates; 5) Trained staff to provide legal advocacy about issues stemming from abuse; 5) Professional counseling at affordable rates for non-Complainant issues; 6) Parenting education and anger management classes; and 7) Most services are also available in Spanish.

Houston Area Mental Health Information

provided by the University of Texas Harris County Psychiatric Center

713.741.5000

The University of Texas Harris County Psychiatric Center is dedicated to excellence and leadership in the provision of patient care and the growing need for treatment of persons with mental illness residing in Harris County.

Katy Christian Ministries

Domestic Abuse: 281.391.4504

Sexual Assault: 281.391.5262

Katy Christian Ministries is a social service non-profit serving the Katy/West Houston, Fulshear and Simonton Areas. KCM has social service departments that offer emergency financial

assistance, food pantries, a crisis center that houses the domestic abuse center and the sexual assault center, 2 resale stores and 3 donation centers.

Women's Center of Brazoria County

979.849.9553

Women's Center of Brazoria County provides: 1) Shelters for abused women and children; 2) Non-residential services (domestic violence and sexual assault); 3) Rape Crisis Program/Sexual Assault Nurse Examiner/SART; 4) Education (Speakers' Bureau, professional trainings, primary prevention); 5) 24 Hour Toll-Free HOTLINES (includes Information & Referral); 6) Volunteer (includes training and assignments); 7) Resale Shop; 8) Supervised Visitation Program; 9) Crime Complainant Compensation (notification and assistance in filing); 10) Domestic Violence Awareness Classes; and 11). Parenting Classes and Workshops.

LOCAL RESOURCES: DALLAS AREA

Parkland Hospital Complainant Intervention Program/Rape Crisis

214.590.2926

The Victim Intervention Program (VIP)/Rape Crisis Center at Parkland helps those who have experienced violence. They provide crisis support, counseling and advocacy. The counselors and advocates will assist in strictest confidence to ensure privacy, safety and well-being.

Brighter Tomorrows

972.262.8383

Brighter Tomorrows is one of the largest domestic violence agencies in Dallas County and includes two emergency safe shelters, a counseling and resource center in Grand Prairie, two thrift stores, a transitional housing program with 68 beds, sexual assault services, and many more services.

The Family Place

214.941.1991

The Family Place is a nonprofit agency that helps families hurt by domestic violence. All services are provided free of charge, with exception of Supervised Child Visitation and the Battering Intervention and Prevention Program (BIPP). All services are also available in English and Spanish.

Genesis Women’s Shelter

214.946.4357

Genesis provides shelter, safety, counseling, and expert services to battered women and their children.

Mosaic Family Services

214.823.4434

Mosaic Family Services is a non-profit community based organization that provides culturally and linguistically competent services to refugees and immigrants in crisis.

STATE RESOURCES

Texas Advocacy Project

www.texasadvocacyproject.org

Sexual Assault Legal Hotline

888.296.SAFE (7233)

Texas Council on Family Violence

512.794.1133

www.tcfv.org

Texas Association Against Sexual Assault

888.918.2272

www.taasa.org

Family Violence Legal Line

800.374.HOPE (4673)

Family Law Hotline

800.777.FAIR (3247)

NATIONAL RESOURCES

National Sexual Violence Resource Center (NSVRC)

877.739.3895

www.nsvrc.org

National Coalition Against Domestic Violence

303.839.1852

www.ncadv.org

National Center on Domestic and Sexual Violence

512.407.9020

www.ncdsv.org

U.S. Department of Justice – Office on Violence Against Women

202.307.6026

www.justice.gov/ovw

National Network to End Domestic Violence

www.nnedv.org

Legal resource website for survivors of domestic violence

www.womenslaw.org

Not Alone: Together Against Sexual Assault

www.notalone.gov

RESOURCES FOR MEN

White Ribbon

White Ribbon is the world's largest movement of men and boys working to end violence against women and girls, promote gender equity, healthy relationships and a new vision of masculinity.

www.whiteribbon.com

Men Can Stop Rape

Men Can Stop Rape seeks to mobilize men to use their strength for creating cultures free from violence, especially men's violence against women.

www.mencanstoprape.org

Male Survivor

Male Survivor is committed to preventing, healing, and eliminating all forms of sexual victimization of boys and men through support, treatment, research, education, advocacy, and activism. www.malesurvivor.org

1in6

The mission of 1in6 is to help men who have had unwanted or abusive sexual experiences in childhood live healthier, happier lives.

www.1in6.org

ADDITIONAL RESOURCES

Loveisrespect

Loveisrespect is a national resource specifically designed for teens and young adults that are involved in abusive relationships.

www.loveisrespect.org/

SAFER

Students Active for Ending Rape (SAFER) is the only organization that fights sexual violence and rape culture by empowering student-led campaigns to reform TBC sexual assault policies.

<http://safercampus.org/>

Step UP!

Step UP! is a prosocial behavior and bystander intervention program that educates students to be proactive in helping others.

<https://www.suwn.org/>

NOTE: These off-campus counselors and advocates may have reporting or other obligations under state law. Thus, all communications with them may not be confidential. Texas law requires anyone with knowledge of suspected child abuse or neglect to immediately report it to the proper authorities. Certain professionals are required to report someone who poses imminent harm to self or others. Persons can also be required to testify if subpoenaed in a criminal case.