

## 6.02.00.00 Sex Discrimination and Sexual Harassment



### Policy/Guidelines

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Sexual Discrimination/Harassment/Misconduct

### Applicable Divisions

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TCATs, Community Colleges, System Office

### Purpose

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It is the intent of the Tennessee Board of Regents that the institutions under its jurisdiction shall fully comply with Title IX of the Education Amendments of 1972, Sections 799A and 845 of the Public Health Service Act and Regulations issued pursuant thereto (45 C.F.R. Parts 83 and 86). The following policy and procedures are adopted by the Board to assist the institutions in such compliance.

### Policy/Guideline

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#### I. Sex Discrimination

- A. It is the policy of the Tennessee Board of Regents that, pursuant to Title IX of the Education Amendments of 1972, Sections 799A and 845 of the Public Health Service Act, and Regulations adopted pursuant thereto, no institution shall discriminate on the basis of sex in the education programs or activities of the institution, including health-related training programs.
- B. Institutions shall ensure that equal opportunity and nondiscrimination exist on the basis of sex for students in all education programs and activities, including but not limited to, the following:
  - 1. Recruitment and admission;
  - 2. Academic, extracurricular, research, occupational training, health-related training, and other education programs;
  - 3. Rules on student life activities;
  - 4. Housing;
  - 5. Facilities;

6. Access to course offerings;
  7. Counseling;
  8. Financial assistance;
  9. Employment assistance;
  10. Health and insurance benefits and services;
  11. Rules on marital or parental status; and
  12. Athletics.
- C. In addition, in conjunction with Board Policy No. 5.01.02.00, each institution shall ensure that no person, on the basis of sex, is excluded from participation in, denied the benefits of, or subjected to discrimination in employment under any education program or activity.
- D. Nondiscrimination in employment on the basis of sex shall include, but not be limited to, the following areas:
1. Employment criteria;
  2. Recruitment and hiring;
  3. Promotion, tenure, demotion, transfer, layoff, termination, nepotism policies, and rehiring;
  4. Compensation;
  5. Job assignments, classifications, and descriptions, lines of progression and seniority lists;
  6. Leave;
  7. Fringe benefits; and
  8. All other terms, conditions, and privileges of employment.

## II. [Sexual Harassment](#)

- A. It is the policy of the Tennessee Board of Regents that pursuant to Title IX of the Education Amendments of 1972 and regulations adopted pursuant

thereto, no institution shall condone sexual harassment of students, applicants for employment or employees and each institution shall affirmatively address all allegations of sexual harassment.

B. Compliance with this policy shall be effectuated through procedures established in accordance with Section III.B. of this policy and Guideline P-080.

C. Procedures

1. Designation of Title IX Coordinator.

- a. Each institution shall designate at least one employee to be the Title IX Coordinator and to coordinate the efforts of the institution to comply with the Acts and the Regulations.
- b. The Title IX Coordinator should have sufficient time and ability to evaluate the compliance efforts of the institution and investigate complaints by employees or students arising under the Acts and the Regulations.
- c. The name of the Title IX Coordinator of each institution should be submitted to the Chancellor or designee.

2. Complaint Procedures.

- a. Each institution's policy shall direct reports and complaints of sexual discrimination, including sexual harassment, to the Title IX Coordinator, by mail, telephone, or electronic mail, using the contact information listed for the Title IX Coordinator. Contact information, including name, mailing address, email address, and telephone number, shall be posted prominently on the institution's website.

3. Statement and Dissemination of Policy.

- a. Each institution shall designate a policy statement reaffirming the fact that it does not discriminate on the basis of sex in the educational programs or activities which it operates and that it is required by Title IX of the Educational Amendments of 1972, Sections 799 A and 845 of the Public Health Service Act, and 45 C.F.R. Parts 83 and 86 not to discriminate in employment or in admission to education programs or activities.
  - b. The policy statement shall include the name, mailing address, email address, and telephone number for the Title IX Coordinator.
  - c. Each institution shall adopt specific and continuing measures whereby applicants for admission and employment, students, employees, and sources of referral of applicants for admission and employment will be notified of the policy adopted pursuant to subsection 1 of this item.
  - d. In addition, each institution shall include the policy statement in each announcement, bulletin, catalog, and application form which it makes available to any person herein described, or which is used in connection with the recruitment of students or employees.
4. Recordkeeping.
- a. The Title IX Coordinator shall retain for a period of seven years the following documents:
    - (1) For each sexual harassment investigation, whether pursuant to Board Policy No. 6.03.00.00, Sexual Misconduct; TBR Guideline P-080; or otherwise:

- (a) the investigation file, which includes any record an institution creates to investigate an allegation, regardless of later dismissal or other resolution, as well as all information required by applicable policy and guidelines;
  - (b) any determination regarding responsibility;
  - (c) any audio or audiovisual recording or transcript;
  - (d) any disciplinary action;
  - (e) any remedies provided to restore or preserve equal access to an education program or activity;
  - (f) any appeal and result; and
  - (g) any informal resolution and result.
- (2) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process about their obligations under the Sexual Misconduct Policy, which shall be available on the institution's website.
- (3) For each report, whether formal or informal, of sexual misconduct as defined by the Sexual Misconduct Policy, where no investigation was conducted, documentation of :
  - (a) records of any actions taken in response, including any interim or supportive measures;

- (b) documentation of the basis for the institution's conclusion that its response was not deliberately indifferent;
- (c) any measures taken to restore or preserve equal access to an institution education program or activity; and
- (d) if an institution does not provide a complainant with supportive measures, documentation as to why institution's response was not clearly unreasonable in light of known circumstances (e.g., the complainant did not wish to receive supportive measures or refused to discuss them with the Title IX Coordinator).

5. Self-Evaluation.

- a. Each institution shall modify any policies and practices which do not meet the requirements of Title IX, the Public Health Service Act, or the Regulations issued pursuant thereto, shall take appropriate remedial steps to eliminate the effects of any discrimination which resulted from such policies and practices, and shall recommend to the Chancellor amendment of any state legislation which inhibits compliance with Title IX, the Public Health Service Act, and the Regulations issued pursuant thereto.
- b. Each institution shall modify any policies and practices which do not meet the requirements of Title IX, the Public Health Service Act, or the Regulations issued pursuant thereto, shall take appropriate remedial steps to eliminate the effects of any discrimination which resulted from such policies and

practices, and shall recommend to the Chancellor amendment of any state legislation which inhibits compliance with Title IX, the Public Health Service Act, and the Regulations issued pursuant thereto.

## Sources

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### Authority

T.C.A. § 49-8-203; All State and Federal Statutes, Acts, Codes, Rules and Regulations referenced in this policy.

### History

TBR Meetings, October 17, 1975; September 30, 1983; December 14, 1984; March 28, 2008; June 19, 2009, to take effect on July 1, 2009; TBR Board Meeting, September 26, 2014, policy renumbered from former policy 2:02:10:01 and revised; Revisions approved at August 12, 2020 Special Called Board Meeting.

## Related Policies

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[5.01.02.00 Equal Employment Opportunity](#)

[6.01.00.00 Sex Discrimination, Sexual Harassment or Sexual Misconduct](#)

[6.03.00.00 Sexual Misconduct](#)

[P-080 Discrimination & Harassment - Complaint & Investigation Procedure](#)