

Ethics

Original Implementation: August 8, 1995

Last Revision: July 25, 2017

General Policy Statement

It is the policy of Stephen F. Austin State University that all officers and employees maintain high ethical standards in the performance of their official duties. The following guidelines regarding state ethics laws for state employees are applicable to the Board of Regents, the administration, faculty and staff of the university. Other university policies that affect ethical standards include but are not limited to: Discrimination Complaints (2.11); Sexual Misconduct (2.13); Dual Employment (11.7); Nepotism (11.16); Purchasing Ethics and Confidentiality (17.22); Fraud (2.7); Discipline and Discharge (11.4); Purchases from Employees (17.21); and Financial Aid Code of Conduct (4.7). Officers and employees of the university will receive regular training on the provisions of this policy.

Ethics Laws for State Officers and Employees

State officers and employees owe a responsibility to the people of Texas in the performance of their official duties. See Texas Government Code §572.001. High institutional standards and high personal standards are critical to fulfilling that responsibility. There are a variety of both civil and criminal statutes that set out the ethical responsibilities of state officers and employees. The Texas Ethics Commission is charged with interpreting, issuing advisory opinions, and enforcing certain ethics laws including Chapter 572 of the Government Code and Chapters 36 and 39 of the Penal Code. Those statutes contain provisions relating to conflicts of interest, bribery, gifts, official misconduct, and misuse of state property, among other things. Additionally, §556.004 of the Government Code contains a list of prohibited acts of agencies and individuals with regard to political activity. A variety of other Texas statutes contain specific ethics provisions applicable to state employees and officers. All employees and officers are required to abide by applicable state and federal laws and regulations regardless of whether they are specifically stated in this policy. Any employee determined to be in violation of this policy is subject to disciplinary action, up to and including termination. The general counsel should be contacted on matters arising under this policy.

1. Conflicts of Interest, Commitment, Bribery and Gifts

While the law regarding conflicts of interest may be legally complex, §572.051 of the Government Code outlines standards for state officers and employees, which if followed, should prevent most conflicts of interest from occurring. It does not provide any penalties or sanctions at law for failure to comply with the standards it sets, though in cases of

egregious noncompliance a person's behavior could constitute a crime under one of the Penal Code provisions governing the conduct of state officers and employees. However, failure to comply with the standards may result in disciplinary action, up to and including termination.

The acceptance of gifts by state officers and employees is addressed in §572.051(1), which provides that a state officer or employee should not accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct.

A state officer or employee should never accept anything if it might make him do his job differently, or if he thinks the person giving it has the hope he will do his job differently. Section 572.051(5) provides, in effect, a "no tipping" rule for state officers and employees. It states that a state officer or employee should not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another.

For most state employees, compliance with §572.051(1) and (5) eliminates worry about compliance with either the Penal Code or the lobby law with respect to the acceptance of gifts.

Section 572.051(2), (3), and (4) states that state officers and employees should not engage in economic activities even on their own time that might affect decisions at their state job, or that might lead them to disclose confidential information learned on the job. Simply put, state officers and employees should not engage in business or investments that might make them want to do their state job differently. Additionally, university policy requires university approval prior to engaging in outside employment. If approved, performance of the employee's responsibilities to the university is paramount and outside work must assume a position secondary to university responsibilities. See Outside Employment (11.19).

Section 572.051(2), (3) and (4) of the Government Code specifically reads as follows:

572.051. STANDARDS OF CONDUCT; STATE AGENCY ETHICS POLICY.

(a) A state officer or employee should not:

(2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;

(3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by: Acts 2007, 80th Leg. R.S., Ch. 629, Sec. 1, eff. September 1, 2007

The Texas Penal Code also includes provisions regarding conflicts of interest, bribery and gifts. A state employee commits the offense of bribery if he intentionally or knowingly solicits, offers, or accepts a "benefit" in exchange for his decision, opinion, recommendation, vote, or other exercise of discretion as a state employee. Penal Code §36.02.

Most state employees are subject to a prohibition on the acceptance of "benefits." Penal Code §36.08. For example, an employee of a regulatory agency may not accept a benefit from a person the employee "knows to be subject to regulation, inspection, or investigation by the public servant or his agency." *Id.* §36.08(a). Also, an employee of a state agency who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions may not accept a benefit from a person the employee knows is "interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion." *Id.* §36.08(d). These prohibitions apply regardless of whether the donor is asking for something in return.

The statutory definition of "benefit" is "anything reasonably regarded as pecuniary gain or pecuniary advantage." Penal Code §36.01(3). In advisory opinions, the Ethics Commission has stated that the following gifts may be benefits: a \$50 clock, a hotel room, a hunting trip, football tickets, a \$160 rifle, and a \$60 restaurant meal. Ethics Advisory Opinions Nos. 97, 94, 90, 69, 60 (1992). Benefits such as food, lodging, transportation, football tickets, etc., may however be permissible if accepted as a "guest." Penal Code §36.10(b). To accept something as a guest, the donor must be present.

Other advisory opinions have concluded that certain items are not benefits. A cup of coffee is not a benefit. Ethics Advisory Opinion No.118 (1993). Small amounts of perishable food delivered to government offices are generally not benefits. Ethics Advisory Opinion No. 62 (1992). Trinkets of minimal value such as coffee mugs, key chains, and "gimme" caps are generally not benefits. Ethics Advisory Opinion No. 61 (1992). A plaque is not a benefit.

Ethics Advisory Opinion No. 36 (1992). Of course, a state officer or employee may accept a gift from a person such as a friend, relative, or business associate with whom he has a relationship independent of that official status if the gift is given on account of that relationship rather than the officer's or employee's official status. Penal Code §36.10(a)(2).

Honoraria may also be considered as gifts or benefits under the Penal Code. A state officer or employee may not solicit, agree to accept, or accept an honorarium in consideration for services he would not have been asked to provide but for his official position. Penal Code §36.07. Thus, for example, the officer or employee may not take a speaker's fee for speaking in his official capacity. Although questions about honoraria come up most frequently in regard to speeches, the prohibition applies to fees or gifts for any service that the officer or employee would not have been asked to provide but for his official position. It is permissible to accept food, transportation, and lodging in connection with a speech or other service performed in an official capacity.

Except as otherwise permitted by law or policy, university employees are prohibited from having a direct or indirect financial or other interest, engaging in a business transaction or professional activity, or incurring any obligation that is in substantial conflict with the proper discharge of their duties. This includes, but is not limited to, engaging in non-employment related activities that interfere with the employee's duties and responsibilities to the university.

2. Official Misconduct and Misuse of State Property

A state employee would commit an offense if, with intent to obtain a benefit or harm another, he intentionally or knowingly violated a law relating to his office or employment. Penal Code §39.02(a)(1). This catchall prohibition applies to any violation of a law relating to the employee's state employment. This means, for example, that a violation of a rider to the Appropriations Act, done with intent to obtain a benefit or harm another, could be the basis of a criminal prosecution.

Also, an officer or employee would commit an offense if, with intent to obtain a benefit or harm another, he misapplied anything of value belonging to the government that has come into his custody or possession by virtue of his state employment. Penal Code §39.02(a)(2). This provision is the basis for criminal prosecutions regarding the misuse of state property for personal use or otherwise. Additionally, university policy 17.14, Property Inventory and Management, and Government Code § 2203.004 specifies that university property may only be used for state/university purposes. This includes electronic resources. See Use of Electronic Information Resources (16.32).

Under Government Code §552.352, misuse or improper distribution of confidential information is also considered a specific type of crime involving official misconduct.

In addition to criminal liability, employees may be responsible for the negligent loss, damage or destruction to university property under Property Liability (16.22).

Financial Disclosure Statements

Regents and the president must file financial disclosure statements with the Texas Ethics Commission by April 30 of each year, or as otherwise required under the Government Code Chapter 572.

3. Prohibited Acts of Agencies and Individuals Regarding Political Activity

The university, its officers and employees may not use any money under its control, equipment or official authority to influence an election as prohibited by §556.004 of the Texas Government Code. Sections 556.004-.009 of the Government Code specifically read as follows:

556.004 PROHIBITED ACTS OF AGENCIES AND INDIVIDUALS.

- a. A state agency may not use any money under its control, including appropriated money, to finance or otherwise support the candidacy of a person for an office in the legislative, executive, or judicial branch of state government or of the government of the United States. This prohibition extends to the direct or indirect employment of a person to perform an action described by this subsection.*
- b. A state officer or employee may not use a state-owned or state-leased motor vehicle for a purpose described by Subsection (a).*
- c. A state officer or employee may not use official authority or influence or permit the use of a program administered by the state agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.*
- d. A state employee may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose.*
- e. For purposes of Subsection (c), a state officer or employee does not interfere with or affect the results of an election or nomination if the individual's conduct is permitted by a law relating to the individual's office or employment and is not otherwise unlawful.*

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999

556.005 EMPLOYMENT OF LOBBYIST.

- a. *A state agency may not use appropriated money to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 to register as a lobbyist. Except for an institution of higher education as defined by Section 61.003, Education Code, a state agency may not use any money under its control to employ or contract with an individual who is required by Chapter 305 to register as a lobbyist.*
- b. *A state agency may not use appropriated money to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 to register as a lobbyist. This subsection does not apply to the payment by a state agency of membership fees under Chapter 81.*
- c. *A state agency that violates Subsection (a) is subject to a reduction of amounts appropriated for administration by the General Appropriations Act for the biennium following the biennium in which the violation occurs in an amount not to exceed \$100,000 for each violation.*
- d. *A state agency administering a statewide retirement plan may enter into a contract to receive assistance or advice regarding the qualified tax status of the plan or on other federal matters affecting the administration of the state agency or its programs if the contractor is not required by Chapter 305 to register as a lobbyist.*

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 249, 4.11, eff. Sept. 1, 2003.

556.0055. RESTRICTIONS ON LOBBYING EXPENDITURES.

- a. *A political subdivision or private entity that receives state funds may not use the funds to pay:*
 - 1. *lobbying expenses incurred by the recipient of the funds;*
 - 2. *a person or entity that is required to register with the Texas Ethics Commission under Chapter 305;*
 - 3. *any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or*
 - 4. *a person or entity that has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.*
- b. *A political subdivision or private entity that violates Subsection (a) is not eligible to receive additional state funds.*

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

556.006 LEGISLATIVE LOBBYING.

- a. A state agency may not use appropriated money to attempt to influence the passage or defeat of a legislative measure. This section does not prohibit a state officer or employee from using state resources to provide public information or to provide information responsive to a request.*

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 86, eff. June 19, 1997.

Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

556.007 TERMINATION OF EMPLOYMENT

A state employee who causes an employee to be discharged, demoted, or otherwise discriminated against for providing information under Section 556.006 (b) or who violates Section 556.004 (c) or (d) is subject to immediate termination of employment.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

556.008 COMPENSATION PROHIBITION.

A state agency may not use appropriated money to compensate a state officer or employee who violates Section 556.004(a), (b), or (c) or Section 556.005 or 556.006(a), or who is subject to termination under Section 556.007.

Added by Acts 1999, 76th Leg., ch. 1498, Sec.1, eff. Sept. 1, 1999.

556.009 NOTICE OF PROHIBITIONS.

- a. A state agency shall provide each officer and employee of the agency a copy of Sections 556.004, 556.005, 556.006, 556.007, and 556.008 and require a signed receipt on delivery. A new copy and receipt are required if one of those provisions is changed.*
- b. A state agency shall maintain receipts collected from current officers and employees under this section in a manner accessible for public inspection.*

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.”

As required by these statutory provisions, all employees shall receive and sign for (or electronically acknowledge receipt of) a copy of this policy as administered by the university's Department of Human Resources.

4. Disclosure Statement for Employees Involved in Purchasing, Contracting, and Investments

Section 2261.252 of the Government Code requires each employee or official involved in procurement or contract management for the university to disclose any potential conflict of interest specified by state law or university policy that is known by the employee or official with respect to any contract with a vendor or bid for the purchase of goods or services from a vendor by the university. This disclosure applies at any time during the procurement process, from the initial request for bids for the purchase of goods or services from a vendor until the completed final delivery of the goods or services, or through the term of a contract with a vendor. Additionally, this provision of state law is applicable to contracts for goods or services solicited through a purchase order if the amount of the purchase order exceeds \$25,000.

As required by §2262.004 of the Government Code, university personnel who make decisions or recommendations regarding the preparation of a solicitation, evaluation of a bid or proposal, who should be awarded the contract, or contract terms or conditions of a major contract award must disclose in writing to the president on a form prescribed by the state auditor direct or indirect pecuniary interests (10% interest or \$25,000 threshold) or family relationships (nepotism) which that employee may have in the major contract award. A major contract award involves a contract of at least \$1 million in value. Use the referenced disclosure form developed by the Office of the State Auditor.

Additionally, to the extent such provision is applicable to the transaction, §2254.032 of the Texas Government Code requires officers and employees who have any financial interest in an offer to provide consulting services to the university to report that interest to the president no later than the tenth day after the date that the offer is submitted. University personnel must also report any individual related to them within the second degree by consanguinity or affinity (as determined by Section 573 of the Government Code) who has an interest in any consulting offer made to the university.

In addition to the specific reporting requirements and thresholds of §2262.004 of the Government Code, university personnel have broader reporting and ethics requirements outlined in Purchasing Ethics and Confidentiality (17.22). Officers and employees also have a legal disclosure requirement to declare any interest in property that is to be acquired by the university as outlined in Government Code Chapter 553.

Investment officers responsible for the investment of public funds under the Public Funds Investment Act, Government Code Chapter 2256, must disclose personal relationships and interests involving investment transactions.

Officers and employees are encouraged to contact the general counsel if they have questions or concerns about the applicability of this disclosure form and to disclose possible indirect or direct pecuniary interests which do not meet the minimum threshold limits outlined in these statutory provisions. Disclosure of all possible pecuniary interests in major or non-major contract awards or procurements is required by Purchasing Ethics and Confidentiality (17.22) to avoid other possible conflict of interest concerns. Potential transactions with relatives of employees should also be disclosed to the general counsel for advice and counsel to initiate measures that avoid any appearances of a conflict of interest.

5. Disclosure by Public Servant of Interest in Property

Section 553.002 of the Government Code requires individuals who are elected, appointed, employed or designated as an officer of government and who have a legal or equitable interest in property that is to be acquired with public funds to file an affidavit with the county clerk of the county the individual resides in and the county clerk of each county in which the property is located. The affidavit must be filed within 10 days before the date on which the property is to be acquired by purchase or condemnation. The contents of the affidavit are included in this section.

6. Conflicts of Interest for Officers (Regents)

In addition to the statutory restrictions outlined above or in referenced policies, officers of the university, namely regents, are held to relatively strict standards for conflicts of interest under law. Conflicts of interest may involve indirect or direct pecuniary interests as established in Texas common law. Specific statutory exceptions have been carved out to allow regents to recuse themselves from specific actions. Section 572.058 of the Government Code permits regents to disclose a personal or private interest in a measure, proposal, or decision pending before the board and not participate in board action involving that matter. Section 51.923 of the Education Code allows the university to contract with nonprofit corporations which may have one or more regents serving on their board or a regent serving as an officer or employee of the nonprofit. The statute also permits the university to contract with business entities in which a regent has an interest. If a regent has a “substantial interest” in the business entity and board approval is required, that regent must recuse himself or herself from the decision on behalf of the university. A regent has a “substantial interest” if the regent or the regent’s spouse, child, parent, father or mother in-law, son or daughter in-law, stepparent, or stepchild: owns one percent or more of the voting stock or shares of the business entity or owns either one percent or more or \$15,000 or more of the fair market value of the business entity; funds received by the regent from the business entity exceed one percent of the regent’s gross income for the previous year; or the regent is an officer of the business entity or its governing board.

Regents should contact the general counsel on possible conflict of interest matters and disclose to counsel potential direct or indirect pecuniary interests in matters pending before the Board of Regents. Potential transactions with relatives of regents should also be disclosed to the general counsel for advice and counsel to avoid any appearances of a conflict of interest.

7. Nepotism

Officers and employees are reminded that hiring certain relatives as defined in Nepotism (11.16) and/or under state law is prohibited.

8. Discrimination and Sexual Harassment

Discrimination and sexual harassment are prohibited by university policies 2.11 and 2.13, respectively, and also under state and federal law.

9. Equity Ownership and Management Participation relating to Research, Development, Licensing and Exploitation of Intellectual Property

Ownership of any equity interest in a business entity that has an agreement with the university relating to research, development, licensing, or exploitation of intellectual property created or discovered by an employee shall be disclosed to the president or his designee. The president shall take any necessary steps to avoid injury to the university as a result of potential conflicts of interest arising out of such equity ownership.

No employee may serve as a director, officer, or employee of a business entity that has an agreement with the university relating to research, development, licensing, or exploitation of intellectual property in which the university has an ownership interest except upon request of, or prior approval by, the Board of Regents. Authorization to serve as a director, officer, or employee of such a business entity may be subject to one or more conditions established to avoid injury to the university as a result of potential conflicts of interest.

In accordance with §51.912 of the Texas Education Code, the names of all business entities that have an agreement with the university relating to the research, development, licensing, or application of intellectual property in which employees own an equity interest, or for which such persons serve as director, officer, or employee, shall be reported to the governor and legislature on an annual basis. The university may accept equity interests as partial or total compensation for rights conveyed in agreements with business entities relating to intellectual property owned by the university. The university may negotiate, but shall not be obligated to negotiate, an equity interest on behalf of any employee as a part of an agreement between the university and a business entity relating to intellectual property

created, discovered, or developed by the employee and owned by the university.

10. Acting as an Agent

An officer or employee of the university is prohibited from acting as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to the university.

Summary

In this age of high ethical standards and unrelenting public scrutiny, it is imperative that all state officers and employees be aware of applicable ethics laws. Texas governmental entities are run under an open government system, and all public officers and employees are subject to review. Anyone who has questions or concerns should contact the university's general counsel. A copy of this policy shall be annually filed with the Texas Higher Education Coordinating Board as required by the General Appropriations Act.

Cross Reference: Article III, § 22 of the General Appropriations Act as adopted by the 85th Legislature; Tex. Gov't Code §§ 403.271(a)-.278, 552.352, 556.004-.009, 2203.004, 2254.032, 2261.252, 2262.004, Ch. 553, 572-573, 2256; Tex. Penal Code Ch. 36, § 39.02; Tex. Educ. Code §§ 51.912, .923 and other applicable state and federal laws; Discrimination Complaints (2.11); Sexual Misconduct (2.13); Dual Employment (11.7); Nepotism (11.16); Use of Electronic Information Resources (16.32); Property Inventory and Management (17.14); Purchasing Ethics and Confidentiality (17.22); Fraud (2.7); Discipline and Discharge (11.4); Outside Employment (11.19); Purchases from Employees (17.21); Financial Aid Code of Conduct (4.7); Property Liability (16.22)

Responsible for Implementation: President

Contact for Revision: General Counsel

Forms: Disclosure Statement for Purchasing Personnel

Board Committee Assignment: Finance and Audit

Fraud

Original Implementation: January 28, 1997

Last Revision: November 2, 2015

INTRODUCTION

This policy establishes procedures and responsibilities for detecting, reporting, and resolving instances of known or suspected fraudulent activity. The intent of the policy is to protect the assets and interests of the university, prescribe a coordinated approach toward investigation and resolution of fraudulent activity, and outline specific responsibilities for individuals responding to the investigation of a fraudulent activity. Retaliation for filing a good faith report regarding suspected fraudulent activity is prohibited by this policy and is cause for disciplinary action, up to and including termination.

DEFINITIONS

- A. University - Stephen F. Austin State University (SFA) and all of its components, regardless of the source of funding.
- B. Employee - All persons receiving compensation from the university, including faculty, staff, and students. The term also includes any volunteer who provides services to the university through an official arrangement with the university or a university organization.
- C. Management - Any administrator, manager, account holder, director, supervisor or other individual who manages or supervises funds, assets, or other resources, including human resources.
- D. Fraud - A representation usually of fact about a material point which is intentionally, knowingly, or recklessly false to induce another to act to his or her detriment.
- E. Fraudulent Activities/Fiscal Misconduct - Defalcation, misappropriation, and other fiscal irregularities or improprieties meeting the definition of fraud in D) above including but not limited to:
 - 1. dishonest, illegal, or fraudulent acts involving university property
 - 2. forgery or alteration of documents including checks, drafts, promissory notes, securities, purchase orders, budgets, etc.
 - 3. forgery or unauthorized alteration by employees of employee benefit or salary-related items such as time sheets, payroll documents, billings, claims, surrenders, assignments, or changes in beneficiary
 - 4. forgery or unauthorized alteration by employees of student-related items such as grades, transcripts, loans, fees, financial aid applications, or financial aid records
 - 5. misappropriation of funds, securities, supplies, or any other asset of the university
 - 6. illegal or fraudulent handling or reporting of money transactions
 - 7. employee acceptance or solicitation of any gift, favor, or service that might reasonably

- tend to influence the employee in the discharge of his or her official duties
8. theft, destruction, or disappearance of records, furniture, fixtures, equipment, or other assets
 9. misrepresentation of information on documents
 10. authorizing or receiving payment for goods not received or services not performed
 11. knowing, reckless, or intentional inaccuracies in the maintenance of books and records or irregularities in financial reporting
 12. any apparent violation of federal, state, or local laws related to dishonest activities or fraud
 13. any similar or related activity.
- F. Suspected Fraudulent Activity - A reasonable belief or actual knowledge that fraudulent activity has or is occurring. Failure to show an actual diversion of assets or loss shall not be considered unreasonable belief.

MANAGEMENT RESPONSIBILITY

Management is responsible for detecting fraudulent or related dishonest activity in their areas of responsibility. Management is responsible for establishing and maintaining a system of internal control that provides reasonable assurance that improprieties are prevented and detected. Each manager should be familiar with the types of improprieties that might occur in his or her area and be alert for any indication that such a defalcation, misappropriation, or other fiscal irregularity has occurred. When an impropriety is suspected, management should determine if an error or mistake has occurred or if there may be dishonest or fraudulent activity.

Management will support the university's fiduciary responsibilities and will cooperate with auditors and law enforcement agencies in the detection, investigation, and reporting of criminal acts, including prosecution of offenders. Every effort should be made to recover university losses.

REPORTING SUSPECTED IMPROPRIETY OR FRAUDULENT ACTIVITY

Any employee of the university who knows of or suspects fraudulent activity or improprieties has the option to report suspected activity as follows:

- notify his or her immediate supervisor
- notify one of the following university employees: the chief audit executive, the general counsel, the chief of police, or the director of human resources; or
- file a report using the university's anonymous reporting system coordinated by the Department of Audit Services for reporting dishonest or fraudulent activity. The university's reporting system, which is hosted by a third party, can be accessed 24 hours a

- day by calling 1-866-294-9539 or clicking the “Report Fraud” link on the SFA homepage.
- file a report with the Texas State Auditor’s Office by calling 1-800-TX-AUDIT (892-8348) or visiting their website at <http://sao.fraud.state.tx.us/Default.aspx>.

All of these reporting options are listed on the university’s website homepage www.sfasu.edu under the report fraud tab at <http://www.sfasu.edu/audit/fraudreport.asp>.

Great care must be taken in the reporting and investigation of suspected improprieties or irregularities to avoid incorrect accusations or alerting suspected individuals that an investigation or audit is underway, and also to avoid making statements which could provide a basis for a lawsuit for false accusation or other offense. The reporting individual should not:

1. contact the suspected individual to determine facts or demand restitution
2. discuss the facts, suspicions, or allegations associated with the case with anyone, unless specifically directed to do so by the chief audit executive, university police chief, general counsel, or director of human resources. To the extent permitted by the applicable provisions of the Texas Public Information Act, confidentiality of those reporting dishonest or fraudulent activities will be maintained. However, the confidentiality cannot be maintained if that individual is required to serve as a witness in legal proceedings.

INVESTIGATION

Prior to conducting an investigation, the appropriate personnel will communicate as necessary to establish the necessary investigative team.

All affected departments and/or individuals shall cooperate fully with the investigative team to identify whether or not actual fraudulent activity has occurred.

The investigative unit shall update university administration on the progress of all investigations.

All requests for information and assistance related to investigations conducted by auditors of federal and state agencies, which are concerned with potential dishonest or fraudulent activities within the university, shall be forwarded immediately to the chief audit executive for consultation with the general counsel.

All inquiries from the suspected individual, their representative, or their attorney shall be directed to the general counsel without further comment.

All reproduction of documents, evidence, and reports shall be performed within the secured work area of the University Police Department or Department of Audit Services. Any requests to release or review such documents will be coordinated through the general counsel.

In order to protect the reputations of innocent persons initially suspected of wrongful conduct and to protect the university from potential civil liability, the results of investigations and audits will not be disclosed or discussed with anyone other than authorized representatives of law enforcement and/or regulatory agencies and persons associated with the university who have a legitimate need to know such results in order to perform their duties and responsibilities, subject to provisions of the Texas Public Information Act.

The results of all investigations will be reported to the president of the university or to the chair of the Board of Regents Finance and Audit Committee when considered necessary.

Allegations of Defalcation, Misappropriation, and other Fiscal Irregularities

The chief audit executive will supervise all audits of allegations of defalcation, misappropriation, and other fiscal irregularities. The Department of Audit Services will have full and unrestricted access to all necessary records, including e-mail, and personnel. All university equipment, furniture, and contents, including desks and computers, are open to inspection when there is reasonable suspicion of a dishonest or fraudulent activity which makes such inspection appropriate; there is no assumption of privacy. The general counsel shall be contacted before inspection of desks and computers beyond inadvertent or official access. Every effort should be made to effect recovery of university losses.

Pursuant to Section 321.022 of the Texas Government Code, the president shall file a report with the Office of the State Auditor if he has reasonable cause to believe that money received from the state by the university may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity. All records of a communication by or to the state auditor in this regard are legally considered audit working papers of the state auditor.

Allegations of Criminal Activity

When an audit reveals suspected criminal activity, or an audit is initiated due to an allegation of criminal activity, the university chief of police will be notified immediately and the audit will proceed under his direction. The Department of Audit Services shall assist the university police in investigations of suspected defalcation, misappropriation, and other fiscal irregularities that require accounting and auditing knowledge of university records.

When suspected criminal activity may constitute a felony offense, the university chief of police shall, when appropriate, immediately notify the president or his designee. The university chief of police, chief audit executive, and general counsel will coordinate assistance provided to state,

federal, and local law enforcement agencies in connection with felony fraud investigations. All requests for information and/or assistance from such agencies, received by any other component of the university, shall be immediately forwarded to the university police for determination and handling. All reasonable assistance will be given to law enforcement agencies when requested.

Audits revealing violations of the Penal Code for which an audit report will be issued shall be reduced to final report form only after consultation by university police with the local prosecutor or the Office of the General Counsel to ensure that appropriate documentation of the facts has been achieved in order to permit appropriate personnel action, protect innocent persons, support appropriate civil or criminal actions, document claims made pursuant to applicable fidelity bonds, preserve the integrity of criminal investigation and prosecution, and avoid unnecessary litigation.

Allegations Involving Employment Conditions

The director of human resources will supervise or assist with all investigations involving allegations that arise by nature of one's employment that do not otherwise fall into one of the above categories.

AUDIT FINDINGS

Each investigation of possible dishonest or fraudulent activities has the potential to provide valuable insight into university activities. Investigations may disclose control weaknesses or other deficiencies that require additional auditing or attention by management. The Office of Audit Services shall consider the nature and extent of the investigation and complete any additional audit work necessary to provide management with information for appropriate action.

Cross Reference: Ethics (2.6); Tex. Gov't Code § 321.022

Responsible for Implementation: President

Contact for Revision: Vice President for Finance and Administration

Forms: None

Board Committee Assignment: Finance and Audit

Computer System Access

Original Implementation: January 19, 1999

Last Revision: July 26, 2016

University information resources are strategic assets which, being property of the state of Texas, must be managed as valuable state resources. Access to university information resources is normally controlled by a login ID associated with an authorized account. Proper administration of these login IDs is important to ensure the security of confidential information and normal business operation of university managed and administered information resources.

This policy applies to university information resources that store or process mission critical and/or confidential information.

The information resource owner, or designee, is responsible for ensuring that the risk mitigation measures described in this policy are implemented. Based on risk management considerations and business functions, the resource owner may determine that it would be appropriate to exclude certain risk mitigation measures provided in this policy. All exclusions must be submitted to the chief information officer for approval.

The intended audience for this policy includes, but is not limited to, all information resource owners and system administrators.

1. An approval process is required prior to granting access to an information resource. The approval process will document the acknowledgement of the account holder to follow all terms of use and the granting of access by the resource owner or their designee.
2. Each person will have a unique login ID and associated account for accountability purposes. Guest accounts are to be used in limited situations, and must provide individual accountability.
3. Access controls are to be modified appropriately as an account holder's employment or job responsibilities change.
4. Account creation processes are required to ensure that only authorized individuals receive access to information resources.
5. Processes are required to disable login IDs that are associated with individuals that are no longer employed by, or associated with, the university. In the event that authorized access is to remain active, the unit (e.g., owner, unit head) will document that a benefit to the university exists and give a date when access can be disabled.
6. Passwords associated with login IDs will comply with university password minimum requirements.
7. System administrators and other designated personnel will have documented processes:
 - a. For removing the accounts of individuals who are no longer authorized to have access to university information resources.
 - b. To modify user account access controls to accommodate changes in job status.
 - c. For periodically reviewing existing accounts for validity.

Cross Reference: None

Responsible for Implementation: Provost and Vice President of Academic Affairs

Contact for Revision: Chief Information Officer

Forms: Account Authorization Form

Board Committee Assignment: Academic and Student Affairs

Use of Electronic Information Resources

Original Implementation: July 25, 2002

Last Revision: January 27, 2015

STATEMENT

Stephen F. Austin State University (SFA) supports the responsible use of its electronic information resources. SFA's information resources include, but are not limited to, computers, servers, wired and wireless networks, computer-attached devices, network-attached devices, voice systems, cable systems and computer applications. The use of information resources is for SFA academic activities, research and public service. Access to SFA's information resources is, however, a privilege. All users of information resources should act responsibly to maintain the integrity of these resources. Furthermore, all users will abide by all existing SFA codes of conduct as well as local, state and federal statutes. SFA reserves the right to limit, restrict or extend privileges and access to its resources.

RESPONSIBILITIES

- It is the responsibility of all individuals using SFA's information resources to protect the privacy of their account(s). Personal account information should not be released to friends, relatives, roommates, etc. Users are responsible for the security of their passwords..
- All individuals using SFA information resources are prohibited from using a computer account for which they are not authorized, or obtaining a password for a computer account not assigned to them.
- The owner or designated assignee of a computer that is attached to the SFA network is responsible for both the security of the computer system and for any intentional or unintentional activities from or to the network connections. Owners or designated assignees are responsible for all network activity originating from their equipment, regardless of who generates it.
- Any person operating a network-intensive application or a defective computer that causes network overload will be notified, and steps will be taken to protect other users and the overall SFA network. This may include disconnecting the defective computer system from the network until the problem is resolved. If the condition is an imminent hazard to the SFA network or disrupts the activities of others, the defective computer system or the subnet to which it is attached may be disabled without notice. The operator of the defective computer system will be expected to follow instructions from networking staff for securing the machine.

- Any person using e-mail should not send unnecessary e-mails, attachments, or messages locally or over the network.
- The content of any files or services made available to others over the network is the sole responsibility of the person with ownership of and/or administrative authority over the computer providing the service. It is this person's responsibility to be aware of all applicable federal and state laws, as well as SFA policies. This person will be liable for any violations of these laws and policies.
- It is the responsibility of every person using SFA's information resources to refrain from engaging in any act that may seriously compromise, damage, or disrupt the operation of computers, terminals, peripherals, or networks. This includes, but is not limited to, tampering with network components, blocking communication lines, interfering with the operational readiness of a computer, creating/operating unsanctioned servers or personal Web (NAT, DHCP or BOOTP servers included) or File Transfer Protocol (FTP) sites, or delivering unsanctioned streaming audio, video, high bandwidth gaming, or high bandwidth video conferencing. Users should refrain from using an IP address not specifically assigned to them and should not attempt to create unauthorized network connections or unauthorized extensions, or re-transmitting any computer or network services.
- All email messages of a personal nature sent by faculty, staff, and retirees using an SFA email address must contain the following disclaimer: "The views and opinions expressed in this message are my own and do not necessarily reflect the views and opinions of Stephen F. Austin State University, its Board of Regents, or the State of Texas."
- All breaches of system security will be reported immediately to networking personnel.

INFRACTIONS

Examples of infractions include, but are not limited to:

- Circumventing or attempting to circumvent data protection schemes or exploiting security vulnerabilities.
- Running programs that attempt to identify passwords, weaknesses in the SFA system, or other security codes.
- Attempting to monitor or tamper with another user's data communications or network traffic, or reading, copying, changing, or deleting another user's files or software without the explicit agreement of the owner.
- Knowingly running or installing on any computer system or network, or giving to another user, a program intended to damage or to place an excessive load on a computer system or network. This includes, but is not limited to, programs known as computer viruses, Trojan horses and worms.

- Using SFA computer resources for private business or commercial activities (except where such activities are otherwise permitted or authorized), fundraising or advertising on behalf of non-SFA organizations, reselling of SFA computer resources and using SFA's name in an unauthorized manner.
- Engaging in unlawful communications, including threats of violence, obscenity, child pornography and harassing communications.
- Attempting to alter any SFA computing or networking components (including, but not limited to, switches, routers and data/phone/cable TV wiring) without authorization or beyond one's level of authorization.
- Failing to comply with requests from appropriate SFA officials to discontinue activities that threaten the operation or integrity of computers, systems, networks, or otherwise violate this policy.

PENALTIES

Misuse of computing, networking, or information resources may result in the loss of computing privileges, as well as other disciplinary action.

PRIORITIES

When demand for computing resources exceeds available capacity, priorities for their use will be enforced. The priorities for use of computing resources are:

- Highest: Uses that directly support the educational, research and service missions of SFA.
- Medium: Uses that indirectly benefit the education, research and service missions of SFA, as well as reasonable and limited personal communications.
- Lowest: Recreational use, including game playing and general browsing.
- Forbidden: Uses listed in the Infractions section of this policy, as well as breaches of the Responsibilities section not specifically listed under the Infractions section.

SFA may enforce these priorities by restricting or limiting usages in circumstances where their demand and limitations of capacity impact or threaten usages of higher priority.

IMPLIED CONSENT & LIABILITY RELEASE

All individuals with access to SFA computing resources are responsible for their appropriate use. Such use constitutes an agreement to comply with applicable SFA policies and regulations, with applicable city, state, and federal laws and regulations, and with applicable policies of the affiliated networks and systems.

Each person requesting service from an SFA Telecommunications and Networking technician for equipment owned by a person or entity other than SFA must acknowledge and accept the following liability release before the technician provides the requested service:

By accepting technical support from the Telecommunications and Networking staff, I expressly waive all claims against SFA and its agents for any damages to my computer system or data that are incidental to the technical support rendered by Telecommunications and Networking. I understand that the technical support I receive from Telecommunications and Networking may void manufacturer warranties and I understand that Telecommunications and Networking offers no verbal or written warranty, either expressed or implied, regarding the success of this technical support. I understand that I have the right not to accept support from Telecommunications and Networking staff and to seek technical assistance elsewhere.

Cross Reference: None

Responsible for Implementation: Provost and Vice President for Academic Affairs

Contact for Revision: Chief Information Officer

Forms: None

Board Committee Assignment: Academic and Student Affairs

Computer and Network Security

Original Implementation: January 24, 1995

Last Revision: November 2, 2015

This policy establishes the conditions and security requirements for the use of computing equipment and networks at Stephen F. Austin State University (SFA). Computing equipment includes desktops, laptops, servers, handheld devices, and printers. In order to comply with state requirements (Information Resources Management Act, Tex. Gov't Code Ch. 2054, and Tex. Admin. Code, Title 1, Part 10, Ch. 202), the chief information officer serves as the information resources manager for the university.

Definitions:

Information Technology (IT) Security Sensitive Positions – Employees with application security permissions allowing access to information other than their own personal employee information.

Scope:

This policy applies at all university locations or data centers and represents the minimum requirements that must be in place. Individual areas with computers and networks may have additional controls and security.

Policy:

1. Each vice president, dean or director will designate staff (not student employees) or the technical services group of Information Technology Services (ITS) as responsible for the support, maintenance and security of the computing equipment within their purview. For organizational units that designate local staff as their support provider, ITS will provide computing support guidelines specifying the level of support that ITS will provide as the secondary support provider.
2. Each organizational unit will implement local security procedures to include:
 - a. Protection of the privacy of confidential information;
 - b. Protection of information against unauthorized modification;
 - c. Protection of systems against unauthorized access and use;
 - d. Display of the security banner from the ITS security web page on organization computers;
 - e. Use of the university's central authentication source for user authentication on servers and desktop computers, where feasible;
 - f. Use of the standard university antivirus software in a managed configuration, where feasible.

3. Each organizational unit of SFA that maintains a local area network(s) must develop a local security procedures document that is subject to approval by ITS. In order to mitigate and manage risk, each organizational unit maintaining servers will participate in the annual information systems security risk assessment. The president or designee will make the final security risk management decisions either to accept exposures or to protect the data according to their value or sensitivity.
4. SFA will not be liable for the loss of data or interference with files resulting from the university's efforts to maintain the privacy and security of the university's computer, information, and network facilities. In order to maintain network security, the university reserves the right to:
 - a. Limit, restrict, or terminate an account holder's usage;
 - b. Inspect, copy, remove, or otherwise alter any data, file, or system resource that threatens the security of a system or network, with or without prior notice to the user;
 - c. Check systems periodically and take the necessary actions to protect university computers, information, and networks.
5. Individuals will exercise responsible, ethical behavior when using the university's information resources. The university reserves the right to limit, restrict or extend privileges and access to its resources.
 - a. Access to certain university information resources is provided through the establishment of an account. Computer accounts must be approved in writing through the respective dean or director (or designated representative) of the administrative unit.
 - b. Since the university permits access to copyrighted data through the Internet, each user is responsible for complying with university policy 9.3, Digital Millennium Copyright. Disciplinary action, including termination of service, may be taken on any reported copyright infringements that have been investigated and determined valid.
 - c. Computer systems provided by SFA are reserved only for university-related activities (See Chapter 39 of the Texas Penal Code for provisions dealing with the misuse of state property). The intentional deletion or alteration of information or data of others, intentional misuse of system resources, and misuse of system resources by others are prohibited.
6. All employees will have security awareness training commensurate with their role at the university. All employees in IT Security Sensitive Positions must complete security awareness training annually. Each department head or academic unit head is responsible for ensuring employees are correctly identified as being in IT Security Sensitive Positions and the employees identified participate in security awareness training.
7. Each user is responsible for complying with university policies 16.32, Use of Electronic Information Resources and 9.1, Computing Software Copyright.

Sanctions for Policy Violations:

Violations of any provision of this policy may result in, but are not limited to:

- a. a limitation on a user's access to some or all university computer systems;
- b. the initiation of legal action by the university;
- c. restitution by the violator for any improper use of service; and/or
- d. disciplinary sanctions, which may include dismissal.

Many academic courses and work-related activities require the use of computers, networks, and systems of the university. In the event of an imposed restriction or termination of access to some or all university computers and systems, a user enrolled in courses or involved in computer related work activities may be required to use alternative facilities. However, users are advised that if alternative facilities are unavailable or not feasible, users are responsible for the failure to complete requirements for course work or work responsibilities.

Cross Reference: Use of Electronic Information Resources (16.32); Computing Software Copyright (9.1); Digital Millennium Copyright (9.3); Texas Information Resources Management Act, Tex. Gov't Code Ch. 2054; 1 Tex. Admin. Code §§ 202.1-.2, .70-.76; Tex. Penal Code §§ 39.01-.02.

Responsible for Implementation: Provost and Vice President for Academic Affairs

Contact for Revision: Chief Information Officer

Forms: None

Board Committee Assignment: Academic and Student Affairs

Email for University Communication

Original Implementation: January 28, 2003

Last Revision: April 12, 2016

Email is an official means of communication among university faculty, students, and staff members. Although email accounts are assigned to all prospective students at the time they apply for admission, they are not bound by this policy until they have been admitted to the university.

The following conditions apply to university email accounts:

1. Each person applying for admission to Stephen F. Austin State University (SFA) as a student will be assigned an email account. Each faculty or staff member hired by the university will be assigned an email account at the time the employment information is entered into the Human Resources system.
2. The assigned email account will be considered an official method of communication from university faculty and administrators to faculty, enrolled students, and staff members, either collectively or individually. All personnel and students are responsible for university email message content, even if they do not use the university system as their primary account.
3. Applicants' email accounts will be removed if they do not enroll at SFA. Enrolled students can keep their email accounts as long as they wish.
4. Faculty and staff email accounts will be deleted after 5 p.m. on the last day of employment.

Cross Reference: Use of Electronic Information Resources (16.32)

Responsible for Implementation: Provost and Vice President for Academic Affairs

Contact for Revision: Chief Information Officer

Forms: None

Board Committee Assignment: Academic and Student Affairs

Drug and Alcohol Testing

Original Implementation: July 14, 1998

Last Revision: April 25, 2017

It is the policy of Stephen F. Austin State University to promote a safe, healthy and productive learning and working environment free from the influences of drugs and alcohol. The university must set an example to ensure the safety, health and welfare of its employees, students and the citizens which it serves, by taking the appropriate steps for maintaining a drug-free workplace as mandated by the state and federal governments. This policy supplements all other SFA policies regarding drug and alcohol use and related topics by establishing the guidelines for drug and alcohol testing. The drug and alcohol testing program is for the purpose of ensuring a healthy and safe workplace, and may not be used for the purpose of criminal prosecution.

General Policy

Stephen F. Austin State University may require employees in safety sensitive positions to submit to drug and/or alcohol testing based upon reasonable suspicion, post-accident, or post-university referred drug and/or alcohol rehabilitation. University safety sensitive employees who are subject to Department of Transportation regulations in 49 C.F.R. parts 382 and 40 (primarily drivers with commercial driver's licenses) will additionally be subject to random drug and/or alcohol testing proscribed by federal law.

1. Reasonable Suspicion:

1. Direct observation of drug or alcohol use or possession and/or demonstration of physical symptoms of the influence of a drug or alcohol as related to work activities,
2. A pattern of abnormal or erratic behavior, consistent with alcohol or drug abuse,
3. Arrest or conviction of a drug or alcohol related offense as the focus of a criminal investigation into illicit drug use, possession, or trafficking,
4. Information provided by reliable or credible sources,
5. Information, which is independently corroborated,
6. Evidence that an employee or student worker has tampered with a previous drug or alcohol test, or
7. Possession of drug paraphernalia.

Individuals having reasonable suspicion of an employee in a safety sensitive position, based on the above criteria, must contact the director of human resources and/or the director of environmental health, safety, and risk management. When feasible, the Office of the General Counsel will be contacted to confirm whether a given circumstance is sufficient to conduct a test.

Reporting personnel shall document the exact reasons why they suspect that a certain employee in a safety sensitive position has violated the drug and/or alcohol policy to include: the symptoms exhibited by the employee; the actions of the administrator, faculty, employee

or student worker; if at all possible, corroborating statements from other administrators, faculty, employees or student workers; and other evidence which tends to establish a reasonable suspicion of illicit drug or unauthorized alcohol use. Statements by the reporting personnel should document specific facts, not speculation, about an employee's behavior or appearance which would lead a reasonable person to the conclusion that the employee was using or in possession of illicit drugs or unauthorized alcohol. The emphasis should be placed on how the behavior of the employee is affecting his/her performance.

2. Post-accident:

Each employee in a safety sensitive position who is involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug/alcohol test. (A drug or alcohol test will also be requested if damage has occurred to university property as a direct result of the employee's behavior.)

As a condition of continued employment, any employee in a safety sensitive position who is participating in a substance abuse treatment program or who has a rehabilitation agreement with the university following an incident involving substance abuse may be required to submit to additional drug testing. This section shall not apply to employees in safety sensitive positions who have successfully completed a drug and or alcohol rehabilitation program prior to employment with the university.

Until the results of a test are received, an individual will automatically be removed from all safety sensitive functions, but may perform duties as assigned. Individuals may be suspended with pay pending investigation, if the continued participation of that individual presents a real and present danger to personal safety or property or threatens the health and safety of the individual or peers.

Prohibited Employee Conduct

1. Engaging in the manufacture, distribution, possession, or use of prohibited substances on university property, in university vehicles, or while in the conduct of university business. (Alcohol possession or use may be permitted on university property as articulated by university policy.)
2. Reporting to work under the influence of alcohol or illegal drugs.
3. Testing positive for alcohol and controlled substances as a safety sensitive employee.
4. Refusing to submit to required testing as a safety sensitive employee.
5. Permitting a subordinate employee, in a safety sensitive position, to perform or continue to perform safety sensitive functions when the supervising employee has actual knowledge that a safety sensitive employee has engaged in conduct prohibited in paragraphs above.

Refusal to Submit Test

An employee in a safety sensitive position who refuses to consent and submit to a test when

requested under any of the circumstances provided for above will be subject to disciplinary action including termination.

Refusal to submit includes:

1. Failure to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this policy,
2. Failure to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy, and/or
3. Engaging in conduct that clearly obstructs the testing process.

Positive Test

An employee in a safety sensitive position with a positive test will be removed from performing his or her safety sensitive functions. Their supervisor and the director of human resources will meet with each employee who tests positive and inform the employee of the test result.

Based upon the information available after the meeting with the employee, the supervisor and the director of human resources shall determine whether:

1. To proceed to impose appropriate disciplinary action (keeping in mind any minimum penalties as may be required by federal or state law, if criminal penalties may have been pursued, and the nature of the infraction as related to the job functions of the individual) pursuant to university procedures for discipline and dismissal of employee; or
2. To offer the employee the opportunity to participate in and satisfactorily complete an appropriate employee assistance program or rehabilitation program for alcohol and/or drug abusers as a condition of continued employment solely at the employee's expense. An employee who is permitted and chooses to participate in such a program must be informed that the university will pursue appropriate disciplinary action if the employee does not satisfactorily complete the prescribed program.

Recurrence of Substance Abuse: Upon the second occurrence of the necessity to potentially refer an employee to counseling or rehabilitation treatment, there will not be an option to refer the employee in a safety sensitive position for treatment and termination will be automatic.

Subsequent disciplinary actions: When an employee has experienced work related problems as a result of alcohol or drug use and has been reinstated, subsequent disciplinary action will not be taken for the previous work related problems provided the problems cease after reinstatement.

Employees Subject to Drug and Alcohol Testing

All employees in safety sensitive positions of Stephen F. Austin State University are to be included in the alcohol and/or drug testing program and will be subject to testing. Employees identified for testing purposes are expected to cooperate fully with designated clinic and/or laboratory personnel by making themselves available for testing, giving a valid sample and completing accurately all of the steps and necessary documents associated with the test.

Employees in safety sensitive positions at the university who are subject to this drug testing policy are defined as follows:

All employees whose job duties have a direct effect on the health, safety and welfare of employees, students and citizens, which the university serves including the following described duties:

- Drivers with commercial driver's licenses (CDL),
- Employees who are required to have a university certified driver's license in their job description,
- Persons who carry a firearm for security purposes,
- Employees who control dispatch of emergency services,
- Employees who repair or maintain university owned or leased vehicles,
- All maintenance personnel including but not limited to electricians, plumbers, carpenters, etc.,
- All employees who maintain the critical infrastructure of the university including but not limited to database administrators, systems administrators, programmer and systems analysts, network support specialists, etc.,
- Persons required to use dangerous equipment in the course and scope of their jobs including saws, drills, torches, tractors, mowers, and other motorized equipment,
- Employees using chemicals or other dangerous substances in the course and scope of their jobs,
- Medical professionals including licensed doctors, licensed nurses, certified athletic trainers.

Facilities for Testing

Employees selected for testing procedures shall report to the designated independent facility, or may be escorted by an authorized supervisor. A specimen will be collected and tested by an independently approved laboratory using valid, reliable testing procedures as outlined under the U.S. DOT regulations at 49 C.F.R. part 40. The services of a medical review officer (MRO) will be retained for proper laboratory results interpretation.

Test Results

Drug and alcohol screen test results will be reviewed by an independent MRO after receipt of the specimen by the laboratory. Employees who test positive for substances prohibited by this program shall be afforded an opportunity to consult with the MRO and to provide medical records or other biomedical information to assist the MRO in determining whether there is a legitimate medical explanation for the test results, including use of a legally prescribed medication. Upon review of all confirmatory tests and other medical records, the MRO shall issue a confirmation report verifying test results. The MRO's confirmation report and the results therein shall be deemed conclusive.

The MRO refers to a licensed physician who is responsible for receiving laboratory results generated by the employer's drug testing program, evaluation, interpreting and verifying those drug testing results in conjunction with an employee's medical history, and determining whether a positive result was caused by the use of prohibited drugs or by an employee's medical condition.

If a post-accident drug screen produces a positive result due to a safety sensitive employee's lawful use of prescription medication which may impair judgement such as driving, handling equipment or making sound decisions, the employee will be removed from all safety sensitive work and, as soon as reasonably practical, discuss any limitations with the employee's supervisor. An employee may be required to provide a doctor's release to resume regular safety sensitive work duties.

The MRO shall have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's positive test result (as reported by the laboratory) together with his or her medical history and any other relevant biomedical information.

Any results below the minimum stipulated test levels for drug testing or under .02 for alcohol testing shall be considered a negative test result. Any employee with properly confirmed positive drug test results, or greater than .02 alcohol test as certified by the MRO, shall continue to be removed from any safety sensitive work and shall report to the supervisor upon request.

Records

All information from an employee's drug and alcohol tests is confidential, unless otherwise required by law. Records will be maintained in a secure manner so that disclosure of information to unauthorized persons does not occur.

Appeal and Retesting

Employees may appeal positive test results by submitting a written request to the director of human resources within 24 hours after being informed of the positive test result. The appellant has the right to have a second test performed at a certified laboratory of his/her choice. The specimen transfer between the laboratories will follow standard protocol. An MRO shall

interpret the alternate laboratory's test results, considering the nature of the result and time elapsed since the original test. All expenses for such retests will be the responsibility of the appellant.

Notice

All new employees shall receive notice of this policy and be required to sign an acknowledgement of receipt. Failure to sign an acknowledgement of receipt shall not nullify the notice provided by the university. Existing employees will be notified of the policy and its revisions.

Cross-reference: Discipline and Discharge (11.4); Illicit Drugs and Alcohol Abuse (13.11); 49 C.F.R. §§ 40, 382

Responsible for Implementation: President

Contact for Revision: Director of Environmental Health, Safety, and Risk Management, Director of Human Resources, and General Counsel

Forms: Notice and Acknowledgement of Policy Receipt

Board Committee Assignment: Academic and Student Affairs

Illicit Drugs and Alcohol Abuse

Original Implementation: September 1, 1986

Last Revision: July 28, 2015

It is the declared policy of the United States government to create a drug-free America. As a part of that policy, the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701-707, was adopted. On December 12, 1989, President Bush signed the Drug-Free Schools and Communities Act Amendment of 1989, 20 U.S.C. § 1011i, which amends provisions of the Drug-Free Schools and Communities Act of 1986 and the Higher Education Act of 1965. University policies relating to the use of illegal drugs and alcoholic beverages have been established by the Board of Regents of Stephen F. Austin State University in compliance with state and federal law.

Definitions

1. Controlled substance means a controlled substance in schedules I through V of the Schedules of controlled substances, 21 U.S.C. § 812. Examples include, but are not limited to: heroin, marijuana, mescaline, peyote and cocaine. This definition does not include medication prescribed by a physician.
2. Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
3. Criminal drug statute means a criminal statute involving manufacture, distribution, dispensation, use or possession of any controlled substance.
4. Federal agency means an agency as that term is defined in 5 U.S.C. § 551(1).

Standards of Conduct

It is the university's policy that all members of the university community and guests are required to comply with federal, state and local laws regarding the possession, consumption and distribution of alcoholic beverages. All employees (full-time and part-time faculty, staff and students) are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcoholic beverage in the workplace, or reporting to work under the influence of alcoholic beverages or illegal drugs. None of the funds appropriated to the university by the state legislature for travel expenses may be expended for alcoholic beverages.

Alcoholic beverages will be permitted at authorized events on university controlled property only as allowed under the Alcohol Service policy (13.7). The unauthorized use of intoxicating beverages on university-controlled property or at university-sponsored activities, including, but not limited to, intercollegiate and intramural athletic events is prohibited. Alcoholic beverages are not permitted in university residence halls.

It is the policy of Stephen F. Austin State University that any unlawful manufacture, possession or

delivery of any controlled substance or illegal drug is strictly prohibited. Moreover, it is the policy of the state of Texas and of this university that this institution will be as free of illegal drugs as it can possibly be.

Health Risks

ALCOHOL ABUSE

Alcohol is a primary and continuous depressant of the central nervous system. Impairment of judgment and of recently learned, complex and finely tuned skills begins to occur at blood alcohol concentrations as low as 0.025 percent. These impairments are followed by the loss of more primitive skills and functions, such as gross motor control and orientation at concentrations in excess of 0.05 percent. Alcohol in moderate doses impairs nearly every aspect of information processing, including the ability to abstract and conceptualize, the ability to use large numbers of situational cues presented simultaneously, and the cognitive ability to determine meaning from incoming information. Alcohol consumption can therefore promote action on impulse without full appreciation of, or concern about, the potential negative consequences of such action. Chronic long-term effects of heavy drinking over a period of years can result in brain damage; cancer of the mouth, esophagus or stomach; heart disease; liver damage resulting in cirrhosis, alcoholic hepatitis, and cancer of the liver; peptic ulcer disease; and possible damage of the adrenal and pituitary glands. Prolonged, excessive drinking can shorten life span by 10 to 12 years.

ILLCIT DRUGS

Illicit drugs include narcotics, such as heroin or morphine; depressants, such as barbiturates, Quaaludes, or valium; stimulants, such as cocaine or "crack"; hallucinogens, such as PCP, LSD or mescaline; cannabis, such as marijuana or hashish; inhalants, such as nitrous oxide, amyl nitrite (poppers) or various hydrocarbon solvents; and designer drugs, such as α -methylfentanyl (China White), methamphetamine (Ecstasy) or meperidine (Demerol).

Narcotics. Narcotics initially produce a feeling of euphoria that is often followed by drowsiness, nausea and vomiting. Tolerance may develop rapidly and dependence is likely. The use of contaminated syringes may result in diseases such as human immunodeficiency virus (HIV), endocarditis (inflammation of the lining of the heart) and hepatitis.

Depressants. The effects of depressants are in many ways similar to the effects of alcohol. Small amounts can produce calmness and relaxed muscles, but a somewhat larger dose can cause slurred speech, ataxia or unstable gait, and altered perception. Very large doses can cause respiratory depression, coma and death. The combination of depressants and alcohol can multiply the effects of the drugs, thereby multiplying the risks. The use of depressants can cause both physical and psychological dependence.

Stimulants. Cocaine stimulates the central nervous system. Its immediate effects include dilated

pupils; elevated blood pressure, heart and respiratory rate; and increased body temperature. Occasional use can cause a stuffy or runny nose, while chronic use can ulcerate the mucous membrane of the nose with long-term use eroding the nasal septum. The injection of cocaine with unsterile equipment can cause human immunodeficiency virus (HIV), hepatitis and other diseases. Preparation of freebase, which involves the use of volatile solvents, can result in death or injury from fire or explosion. Cocaine can produce psychological and physical dependency. In addition, tolerance develops rapidly. Crack or freebase rock is extremely addictive. The physical effects include dilated pupils, increased pulse rate, elevated blood pressure, insomnia, loss of appetite, tactile hallucinations, paranoia and seizures. Overdoses occur easily.

Hallucinogens. Phencyclidine (PCP) users frequently report a sense of distance and estrangement. Time and body movement are slowed down. Muscular coordination worsens, and senses are dulled. Speech is blocked and incoherent. Chronic PCP users report persistent memory problems and speech difficulties. Mood disorders, such as depression, anxiety and violent behavior, may also occur. In late stages of chronic use, users often exhibit paranoid and violent behavior and experience hallucinations. Large doses may produce convulsions and coma, heart failure, lung problems and/or ruptured blood vessels in the brain. Lysergic acid (LSD), mescaline and psilocybin cause illusions and hallucinations. The physical effects may include dilated pupils, elevated body temperature, increased heart rate and blood pressure, loss of appetite, sleeplessness and tremors. Sensations and feelings may change rapidly. It is common to have a bad psychological reaction to LSD, mescaline and psilocybin. The user may experience panic, confusion, suspicion, anxiety and loss of control. Delayed effects or flashbacks can occur even after use has ceased.

Inhalants. The chemicals in most inhalants are rapidly absorbed in the lungs and exert their central nervous system effects within seconds, producing an altered mental state for about five to fifteen minutes. Immediate effects of inhalants include nausea, sneezing, coughing, nose bleeds, fatigue, lack of coordination and loss of appetite. Solvents and aerosol sprays can decrease the heart and respiratory rates and impair judgment. Amyl and butyl nitrite can cause rapid pulse, headaches, and involuntary passing of urine and feces. Inhalation of toluene as well as other hydrocarbons has been associated with kidney and liver damage, peripheral nerve problems, convulsions, encephalopathy (organic brain damage) and other central nervous system disorders. Sudden death associated with both glue sniffing and especially the inhalation of aerosols containing halogenated hydrocarbons (Freon) has been reported and is thought to be secondary to cardiac arrhythmias (abnormal electrical conduction patterns in the heart).

Marijuana. The short term effects of marijuana include distortion of time perception, increased heart rate, dilation of blood vessels and loss of short-term memory. Also decreased are visual perception and psychomotor skills, which have adverse effects on driving ability. The effects of long-term use include loss of motivation, chronic bronchitis, decreased vital lung capacity and an increased risk of lung cancer. Tolerance and psychological dependence develop with marijuana.

Designer Drugs. Designer drugs are synthetic chemical modifications of older drugs of abuse that are designed and manufactured in covert laboratories and sold at great profit for recreational use. These drugs can be several hundred to several thousand times stronger than the drugs they are designed to imitate. Designer drugs similar to opiates include fentanyl, demerol, and "china white." The narcotic analogs of designer drugs can cause symptoms such as those seen in Parkinson's disease - uncontrollable tremors, drooling, impaired speech, paralysis and irreversible brain damage. Analogs of amphetamines and methamphetamines cause nausea, blurred vision, chills or sweating and faintness. Psychological effects include anxiety, depression and paranoia. Withdrawal problems include sweating, diarrhea, fever, insomnia, irritability, nausea and vomiting, and muscle and joint pain.

University Penalties

STUDENTS

Any student who is determined, through the regular disciplinary procedures of the university, to have violated the policy on the use of illicit drugs will be suspended from the university for no more than two years and no less than the remainder of the current semester. At the discretion of the vice president for university affairs or his/her designee, a student suspended under this policy may, under certain conditions, remain enrolled at the university on disciplinary probation. These conditions can include substance abuse evaluation, treatment and/or counseling. Any cost for services or treatment not offered as a student service on campus will be the responsibility of the student.

University sanctions imposed for alcohol possession or consumption can include progressive levels of probation leading to suspension for multiple offenses, attendance at an alcohol education class offered by the university, community service, substance abuse evaluation, treatment and/or counseling. Any cost for services or treatment not offered as a student service on campus will be the responsibility of the student.

EMPLOYEES

All employees (full-time and part-time faculty, staff and students) are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcoholic beverage in the workplace, or reporting to work under the influence of alcoholic beverages or illegal drugs. None of the funds appropriated to the university by the state legislature for travel expenses may be expended for alcoholic beverages.

Observance of the policy regarding alcoholic beverages and illegal drugs is a condition of employment for all university employees. An employee violating this policy shall be subject to employment discipline up to and including termination, or shall be required to undergo satisfactory participation in a drug abuse assistance or rehabilitation program, such as the Employee Assistance

Program of the university.

Any employee directly engaged in the performance of work pursuant to the provision of a federal grant or contract who is convicted of violating a criminal drug statute shall notify his/her immediate supervisor of the conviction no later than five days after the conviction. The immediate supervisor shall promptly report the conviction to the appropriate vice president and the director of research and sponsored programs. On behalf of the university, the director of research and sponsored programs shall notify the federal agency grantor or contractor of the conviction within ten days of the university's receipt of notice from the employee or of receipt of other actual notice.

Good Faith Effort

Stephen F. Austin State University shall make a good faith effort to maintain a drug-free workplace by implementing and enforcing this policy. The university shall also comply with United States Department of Transportation regulations regarding drug testing of drivers with a commercial driver's license.

Federal Law

Offense	Minimum Punishment	Maximum Punishment
Manufacture, distribution or dispensing drugs (includes marijuana)	A term of imprisonment not more than 20 years, and a minimum fine of \$1,000,000	A term of life imprisonment without release (no eligibility for parole) and a fine not to exceed \$4,000,000 (for an individual) or \$20,000,000 (if other than an individual)
Possession of drugs (including marijuana)	Civil penalty in amount not to exceed \$10,000	Imprisonment for not more than 20 years or not less than 5 years, a fine of not less than \$5,000 plus costs of investigation and prosecution
Operation of a common carrier under the influence of alcohol or drugs		Imprisonment for up to 15 years and a fine not to exceed \$250,000

Texas Law

Offense	Minimum Punishment	Maximum Punishment
Manufacture or delivery of controlled substances (drugs)	Confinement in the Texas Department of Criminal Justice State Jail facility for a term of not more than two years or less 180 days, or confinement in a community correctional facility for not more than 1 year, and a fine not to exceed \$10,000	Confinement in TDCJ for life or for a term of not more than 99 years or less than 15 years, and a fine not to exceed \$250,000
Possession of controlled substances (drugs)	Confinement in jail for a term of not more than 180 days, and a fine not to exceed \$2,000	Confinement in TDCJ for life or for a term of not more than 99 years or less than 15 years, and a fine not to exceed \$250,000
Delivery of marijuana	Confinement in jail for a term of not more than 180 days, and a fine not to exceed \$2,000	Confinement in jail for a term of not more than 180 days, and a fine not to exceed \$2,000
Possession of marijuana	Confinement in jail for a term of not more than 180 days, and a fine not to exceed \$2,000	Confinement in jail for a term of not more than 2 years or less than 30 days, or confinement in TDCJ for a term of not more than 10 years or less than 2 years and a fine of not more than \$10,000
Driving while intoxicated (includes intoxication from alcohol, drugs, or both)	Confinement in jail for a term of not more than two years or less than 72 hours, and a fine of not more than \$2,000, possible loss of driver's license and license surcharge up to \$2,000 per year for three years.	Confinement in jail for a term of not more than two years or less than 30 days, or confinement in TDCJ for a term of not more than ten years or less than two years and a fine of not more than \$10,000
Public intoxication		A fine not to exceed \$500
Purchase or consumption or possession of alcohol by a minor	Fine of not more than \$500	For a subsequent offense a fine of not less than \$250 nor more than \$2000
Sale of alcohol or furnishing alcohol to a minor	Fine of up to \$4,000 and/or up to 1 year in jail	Both

Purchase of alcohol or furnishing alcohol to a minor at a gathering involving abuse of alcohol, including binge drinking or coercion	In addition to any other penalty, community service for not less than 20 hours, attendance at an alcohol awareness program, and suspension of driver's license for 180 days.	In addition to any other penalty, community service for not more than 40 hours, attendance at an alcohol awareness or driving awareness program, and suspension of driver's license for 180 days.
Driving under the influence of alcohol by a minor	Fine of not more than \$500 and community service related to education about or prevention of misuse of alcohol.	A fine of not less than \$500 or more than \$2,000, confinement in jail not to exceed 180 days and/or both; community service related to education about or prevention of misuse of alcohol.

Limited Immunity When Requesting Medical Assistance

A minor does not commit an offense for consumption or possession of an alcoholic beverage if the minor (1) requests emergency medical assistance in response to the possible alcohol overdose of the minor or another person; (2) was the first person to make a request for medical assistance; and (3) if the minor requested emergency medical assistance for the possible alcohol overdose of another person, the minor remained on the scene until medical assistance arrives and cooperated with medical assistance and law enforcement personnel.

This immunity shall also apply to the imposition of any university sanction.

Counseling, Treatment and Rehabilitation

STUDENTS

Stephen F. Austin State University, through the counseling services office, provides alcohol/drug abuse prevention service which is available to all students. Services include assistance in abstaining from the use of chemical substances, early intervention when chemical abuse is detected, and referral to a campus support system and/or a community referral for inpatient/outpatient services not available on campus. Medical counseling and printed information on chemical dependency are available through University Health Services, the campus student health facility. Students may seek individual counseling or request printed information at either campus location.

Prevention/Education. The objectives of this element of the assistance program are to: increase awareness of the students, faculty, and staff concerning the psychological and health risks associated with chemical use; provide information to students regarding a variety of wellness issues which promote successful college adjustment; and, orient students, faculty and staff to the services available through the assistance program. Presentations are available to student groups on a variety of topics including alcohol and substance abuse, adult children of alcoholics, assertiveness skills, stress and time management, self-esteem and related issues. A group representative should contact the counseling services office to schedule a presentation. The assistance program also

offers an Alcohol Awareness Workshop. The workshop provides basic information, tools for self-assessment, information on university and state regulations, and an orientation to the assistance program. Students may request to attend the workshop or be referred by the student conduct authority.

Referral/Assessment. Any SFA student requiring information about, or assistance with, a chemical abuse problem may be referred to the assistance program. A student may initiate a self-referral by contacting the counseling office; university faculty and staff may initiate a student referral. Participation by a student is voluntary, except when mandated by the student conduct authority. A counselor conducts an assessment interview on the student's initial visit and provides the student with details regarding confidentiality and record keeping requirements. The counselor informs the student of alternatives and makes recommendations based on the student's needs.

Campus Support System. Counseling services serves as a link between the individual student and support groups which are available for chemical dependency, adult children of alcoholics and victims of sexual abuse. Support groups function under guidelines established by counseling services.

Community Referral. Services for chemical dependency are available in the Nacogdoches community and include: private practitioners offering individual counseling or intellectual/psychological assessment; self-help groups such as Alcoholics Anonymous and Narcotics Anonymous; and inpatient/outpatient treatment.

EMPLOYEES

University employees with supervisory responsibilities should be cognizant of employee behavior related to unacceptable job performance which may result from drug or alcohol abuse. Any decision to initiate employee counseling or a referral to human resources should be based on the employee's unacceptable job performance (which may include violations of this policy). Employee counseling, referral and related record keeping should be conducted with the degree of care and confidentiality appropriate to such personnel matters. Alcohol and drug abuse seminars are among the services provided cost-free to university employees. Other services for employees with a chemical dependency are available in the community, including private practitioners offering individual counseling, self-help groups such as Alcoholics Anonymous and Narcotics Anonymous, and inpatient/outpatient treatment at various health care facilities.

Review and Assessment

It is the intent of Stephen F. Austin State University to continue to strive for a drug-free campus and to comply with state and federal regulations regarding prevention programs established to eliminate the illegal use of drugs and alcohol abuse. To this end, SFA will provide written notice to each student and employee a copy of this policy. Students will receive written notice according to the following schedule:

- On the 12th class day of each long semester
- On the 8th class day following mid-term in each long semester
- On the 2nd class day of Maymester
- On the 4th class day of Summer I and II semesters

Employees will receive written notice no later than October 31st of each year, and all new employees will be notified during new employee orientation.

In addition, the university will conduct a biennial review of the program implemented to provide a learning and working environment free of drug and alcohol use. The purposes of the biennial review will be to: 1) determine the effectiveness of the program and implement needed changes; and 2) ensure that the sanctions included in the program are consistently enforced. The university's dean of student affairs will be responsible for initiating the biennial review. The results of this review will be released in July of even numbered years.

Cross Reference: Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701-707; Drug-Free Schools and Communities Act Amendments of 1989, 20 U.S.C. § 1011i, 34 C.F.R. §§ 86.1-.411; 21 U.S.C. §§ 812, 841-865; 5 U.S.C. § 551(1); General Appropriations Act; Texas Gov't Code § 2113.012; OMB Circular A-21; Tex. Transp. Code § 708.102; Tex. Alco. Bev. Code §§ 106.01-.15; Tex. Penal Code §§ 12.01-.49, 49.01-.12; State of Texas Travel Allowance Guide; Faculty Code of Conduct (7.11); Student Code of Conduct (10.4); Drug and Alcohol Testing (11.6); Discipline and Discharge (11.4); Alcohol Service (13.7)

Responsible for Implementation: President

Contact for Revision: General Counsel

Forms: None

Board Committee Assignment: Academic and Student Affairs

AIDS and HIV

Original Implementation: September, 1990

Last Revision: January 31, 2017

Stephen F. Austin State University recognizes the increasing public awareness and concern over AIDS and HIV. For the purposes of this policy, AIDS means acquired immune deficiency syndrome, and HIV means human immunodeficiency virus. AIDS is a fatal disease that has become a nationwide public health problem. In health related matters such as this one, the university shall follow the guidelines of recognized authorities including: the Centers for Disease Control and Prevention, the United States Public Health Service, the Texas Department of State Health Services, and the American College Health Association. Further, the university shall conform its actions to the Texas Communicable Disease Prevention and Control Act, the Texas Human Immunodeficiency Virus Services Act, and other law as applicable.

The health status of a person infected with HIV may vary from an apparently healthy, normally functioning individual to a critically ill person. However, there is no current medical evidence that persons infected with HIV present a health risk to others in the normal academic or workplace setting. Routine daily encounters with others pose no risk of transmitting the fragile, blood-borne virus. Accordingly, there is no reason to exclude individuals with AIDS or HIV from campus academic, social, or cultural activities. Therefore, on the basis of current knowledge of the disease, persons sharing common living space, work or study areas, libraries, classrooms, recreational facilities, and theaters do not represent a problem or public threat to the campus community.

Students and employees (faculty and staff) of the university who may become infected with HIV will not be excluded from enrollment or employment, or restricted in their access to university services or facilities, unless medically-based judgments in individual cases establish that exclusion or restriction is necessary to the welfare of the infected person or of the other members of the university community.

Persons with HIV infection are entitled to the same rights and opportunities as persons with other communicable diseases. The university prohibits any discrimination in its programs and activities against a person with HIV infection unless based on accurate scientific information. Any student, faculty member, or employee who violates this rule may be subject to appropriate disciplinary action, up to and including termination of employment if an employee and expulsion if a student.

When circumstances arise that require review of any matter regarding HIV/AIDS, the president will seek the advice of the director of the Health Clinic, the attending physician, and other relevant parties. An opportunity will be provided for persons involved in the matter to discuss their circumstances. Members of the Public Health Committee will be available to review the issues and to provide recommendations to the president for appropriate action.

In the event of public inquiry concerning university policy, programs, problems, or statistics related to AIDS on campus, the director of University Marketing Communications will serve as the official spokesperson for the university and will enlist the cooperation of the director of the Health Clinic and the Public Health Committee as necessary to prepare an appropriate response. All inquiries from the press, elected public officials, or the public in general will be referred to the spokesperson.

The medical records and test results of any HIV-infected person on the campus shall remain confidential and private information in accordance with law. The breach of that confidentiality may result in litigation and in severe penalties, both civil and criminal. (Some exceptions to confidentiality are permitted by law.)

The university shall keep the number of people who are aware of the existence and identity of students, faculty, or staff members who have AIDS or HIV to an absolute minimum to protect the confidentiality and privacy of the infected persons and to avoid the generation of unnecessary fear and anxiety on the campus. However, public information shall be disclosed upon request in accordance with the Texas Public Information Act, the Family Educational Rights and Privacy Act, the Texas Communicable Disease Prevention and Control Act, the Texas Human Immunodeficiency Virus Services Act, and other applicable law.

Persons who know, or have a reasonable basis for believing, that they are infected with the AIDS virus are expected to seek expert advice about their health circumstances and are obligated, ethically and legally, to conduct themselves responsibly in accordance with such knowledge for the protection of other members of the university community. The university encourages regular medical follow-up for such persons.

The university shall carefully observe the safety guidelines established by the U.S. Public Health Service for the handling of blood and other body fluids and secretions in the Health Clinic and in other institutional contexts in which such fluids or secretions may be encountered (e.g., teaching and experimental laboratories).

The university shall strictly observe the public health reporting requirements for AIDS and HIV infection as well as other communicable diseases.

The university shall make this policy available upon request to students, faculty, and staff members and such a statement will be included in the Policy and Procedure Manual on the university's Web page.

Policy for the Work Environment

In the work setting, the university's major concern will be whether an HIV-infected employee

will be able to satisfactorily perform job duties. The university will make reasonable accommodations to keep an employee with HIV infection employed and productive for as long as the employee is capable of this performance.

Most HIV-infected employees will be able to perform their job duties for an extended period before their illnesses interfere with job-related performance. During the asymptomatic period, the employee is not obligated to provide information about his/her HIV status to the university. However, an employee may want to share information about his/her HIV-infected status with university officials so that responsible management decisions may be made about:

1. assignments or reassignments of job duties;
2. evaluating leave policies to assure leave time comparable to other medical conditions;
3. determinations of possible qualification for disability entitlements; and
4. monitoring the insurance status of the HIV-infected employee to assure continuation of coverage.

Once HIV-related symptoms occur, the employee has the responsibility as in the case of other illnesses to provide medically verified information relating to the ability to perform job duties.

Based on federal and state law, any medical documentation of information provided by an HIV-infected employee to university officials must be considered confidential and private information. As such, university officials are forbidden by law from disclosing this information to others without the employee's knowledge and consent. (Some exceptions to confidentiality are permitted by law.) The university requires that any consent to disclosure by the employee be in writing. Any university employee who breaches the confidentiality of this information commits a serious offense that may be cause for litigation, resulting in both civil and criminal penalties.

University employees who refuse to work with HIV-infected co-workers may be subject to disciplinary action up to and including termination. University departmental unit heads should carefully monitor and document any instances of such refusal in violation of this policy and take appropriate disciplinary action.

At least once each year, Human Resources shall conduct an HIV/AIDS training program or distribute an educational pamphlet for university employees and include in the program and/or pamphlet:

1. current medical information about HIV transmission and prevention;
2. confidentiality and related laws;
3. personnel management, including relevant policies;
4. development of staff problem-solving skills; and
5. a plan for scheduled periodic training.

Also, each year Human Resources shall conduct HIV/AIDS employee education programs to:

1. provide basic and accurate information regarding the modes of transmission and prevention of HIV infection;
2. reduce fear and misinformation of HIV/AIDS;
3. help faculty and staff recognize and avoid personal behaviors that might cause them to become infected with HIV;
4. encourage nondiscrimination, which enables the HIV-infected person to remain employed as long as feasible;
5. help maintain productivity and lawful behavior in the workplace;
6. provide continuing information about HIV/AIDS; and
7. distribute to all employees a copy of the Texas Department of State Health Services' educational pamphlet entitled "HIV/AIDS and the Workplace."

At a minimum, the HIV curriculum will include:

1. modes of transmission;
2. methods of prevention;
3. behaviors related to substance abuse;
4. current laws and regulations concerning the rights of an AIDS/HIV-infected individual; and,
5. behaviors associated with HIV transmissions which are in violation of Texas law.

On an employee's request, the university shall pay the costs of testing and counseling an employee concerning HIV infection if the employee:

1. provides appropriate documentation that the employee may have been exposed to the HIV virus while performing duties of employment with that agency, and
2. was exposed to HIV in the manner that the U.S. Public Health Service has determined is capable of transmitting HIV.

However, an employee who may have been exposed to HIV while performing job duties at the university may not be required to be tested for HIV.

For the purpose of qualifying for worker's compensation or any other similar benefits or compensation, an employee must provide the employer with a written statement of the date and the circumstances of the exposure and document that within 10 days after the exposure the employee had a test result that indicated an absence of HIV infection.

The cost of an employee's testing and counseling shall be paid from funds appropriated for payment of worker's compensation benefits to state employees. Counseling or a test conducted in accordance with these provisions shall conform to the model protocol on HIV counseling and

testing prescribed by the Texas Department of State Health Services.

In compliance with the Texas Communicable Disease Prevention and Control Act, the University Police Department shall adopt a policy for handling persons with AIDS or HIV infection who are in its custody or under its supervision. The department's policy shall ensure that education programs for employees include information and training relating to infection control procedures and that employees have infection control supplies and equipment readily available.

The university shall adopt and implement workplace guidelines similar to the workplace guidelines for state agencies listed in the Texas Human Immunodeficiency Virus Services Act for any program involving direct client contact that is funded by one of the listed state agencies.

Policy for the Academic Environment

The university shall allow, to the extent possible, HIV-infected students, whether they are symptomatic or not, to continue regular classroom attendance in an unrestricted manner as long as they are physically able to attend class.

The university recognizes that there is no medical justification for restricting the access of HIV-infected students to the Student Center or to university cafeterias, snack bars, gymnasiums, swimming pools, recreational facilities, or other common areas.

The university recognizes that the best currently available medical information does not support the existence of a risk to those sharing residence halls with HIV-infected individuals; in some circumstances however there may be reasonable concern for the health of those with AIDS or HIV who might be exposed to certain contagious diseases (e.g., measles or chicken pox) in a close living environment. Thus, decisions about residential housing of students with AIDS or HIV shall be made on a case-by-case basis. The university may decide to assign students with AIDS or HIV to private rooms in the interest of protecting the health of those students. The university shall provide education programs about AIDS and HIV to its residence hall staff (both students and employees).

Since there is no medical necessity, the university shall not advise others living in a residence hall of the presence of students in the residence hall who have AIDS or HIV. The university believes that the responsibility to provide a safe living environment is best dealt with by educational programming. Similarly, the university shall not make any attempt in any other setting to identify those students or employees who have AIDS or HIV.

The university shall not routinely ask students about their status regarding AIDS or HIV. However, the university shall encourage new students to inform the medical staff at the Health

Clinic if they have AIDS or HIV in order for the Health Clinic to provide proper medical care and education. The Health Clinic staff will handle this information, like all other medical information, in a strictly confidential manner in accordance with university policy and federal and state law.

The university shall not provide any person, group, agency, insurer, employer, or institution with confidential medical information about students with AIDS or HIV virus without the specific written consent of the student. Given the possibility of unintended or accidental compromise of the confidentiality of information, the Health Clinic staff will carefully weigh the importance of including any specific information regarding the existence of AIDS or HIV in the medical record of a student except in circumstances of medical necessity created by the evaluation of an illness. At a minimum, the inclusion of any such information in the medical record should be discussed with the patient prior to its entry.

The university shall make available to students, on request, the educational pamphlet on HIV infection developed by the Texas Department of State Health Services and shall include in the university's Web page a statement that the pamphlet is available from the Health Clinic.

The Health Clinic shall provide accurate, understandable information on how to prevent the transmission of HIV infection in compliance with Section 51.919 of the Texas Education Code.

In further compliance with Section 51.919 of the Texas Education Code, the curricula of the nursing, counseling, and social work degree programs of the university shall:

1. include information about:
 - a. methods of transmission and methods of prevention of HIV infection; and
 - b. federal and state laws, rules, and regulations concerning HIV infection and AIDS; and,
2. give special attention to the physical, emotional, and psychological stress associated with the care of patients with terminal diseases.

Cross Reference: Texas Human Immunodeficiency Virus Services Act, Tex. Health & Safety Code Ch. 85; Texas Communicable Disease Prevention and Control Act, Tex. Health & Safety Code Ch. 81; Tex. Educ. Code § 51.919

Responsible for Implementation: President

Contact for Revision: General Counsel

Forms: None

Board Committee Assignment: Academic and Student Affairs

Discrimination Complaints

Original Implementation: September 1990/February 2, 1982

Last Revision: January 26, 2016

General Policy Guidelines

Purpose: To provide an educational and working environment free of unlawful discrimination or harassment to all members of the university community. This policy applies to visitors, applicants for admission to or employment with the university, and students and employees of the university who allege discrimination by university employees, students, visitors, or contractors.

Non-discrimination Statement: It is the policy of Stephen F. Austin State University, in accordance with federal and state law, to prohibit unlawful discrimination on the basis of race, color, religion, national origin, sex, age, disability, genetic information, citizenship, and veteran status. Unlawful discrimination based on sex includes discrimination defined as sexual harassment. Additionally, Stephen F. Austin State University prohibits discrimination on the basis of sexual orientation, gender identity, and gender expression. Stephen F. Austin State University is committed to the principles of Equal Employment Opportunity (EEO) law. An employee who violates this policy is subject to disciplinary action up to and including termination. A student that violates this policy is subject to disciplinary action up to and including expulsion.

The president or designee will be responsible for overseeing the Discrimination Complaint policy (2.11) and procedures and for ensuring compliance with EEO laws. All employment decisions will be based on objective, job-related, and measurable criteria that can be consistently applied. Human resources or designee will annually review all personnel policies and procedures to ensure compliance with EEO laws and present any recommendations for changes to the president. All employment related documents will be maintained in accordance with the university's Texas State Record Retention Schedule.

For employee-related complaints, the human resources director or designee will be responsible for maintaining records of all formal complaints and the results of such complaints. For student-related complaints, the dean for student affairs or designee will be responsible for maintaining records of all formal complaints and the results of such complaints.

Instances of sex discrimination based on sexual harassment or hostile environment are governed by the Sexual Misconduct policy (2.13).

Definitions

1. **Discrimination** is defined as conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education because of their race, color, religion, national origin,

sex, sexual orientation, gender identity, gender expression, age, disability, genetic information, citizenship, or veteran status.

2. **Harassment** as a form of discrimination is defined as verbal or physical conduct that is directed at an individual or group because of race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, age, disability, genetic information, citizenship, or veteran status when such conduct is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of interfering with an individual's or group's academic or work performance; or of creating a hostile academic or work environment.

The totality of the circumstances will be considered in determining whether a hostile environment exists. Relevant factors in determining whether the conduct has created a hostile environment include but are not limited to the type, frequency and severity of the conduct, whether the conduct is physically threatening or humiliating, and the relationship between the individuals.

General Procedures

1. **Reporting:** A person who believes that he or she has been subjected to any type of discrimination should report the incident to any university official, administrator, or supervisor. Students are encouraged to report such incidents to the dean of student affairs. Employees and visitors are encouraged to report to the director of human resources. Reports of sexual harassment or other forms of sexual misconduct should be reported in accordance with the Sexual Misconduct policy (2.13). Incidents should be reported as soon as possible after the time of their occurrence. No person is required to report discrimination to the alleged offender. Any allegations of sex based discrimination may also be directed to the attention of the Title IX coordinator; allegations of disability based discrimination may also be directed to the ADA coordinator but will be investigated in accordance with this policy.
2. **Referral Responsibility:** Every supervisor, administrator, department head, and university official is responsible for promptly reporting incidents of discrimination that come to his or her attention to the appropriate university official. Students- to-student complaints should be reported to the dean of student affairs. All other complaints should be reported to the director of human resources. Any allegations of sex based discrimination may also be directed to the attention of the Title IX coordinator and allegations of disability based discrimination may also be referred to the ADA coordinator but will be investigated in accordance with this policy. Every attempt should be made to keep the information confidential and restricted to only those who have an absolute need to know.

Complaint Resolution Procedures

1. **Definitions**
 - a. **Complaint** means a signed document alleging discrimination under this policy.
 - b. **Complainant** means a person who submits a written complaint alleging discrimination under this policy. As there may be more than one complainant in an unlawful

discrimination case, the term "complainant" as used herein shall refer to one or more complainants. In the event of a third party charge, the university may serve as the complainant.

- c. **Respondent** means the person alleged to be responsible for the prohibited discrimination or harassment alleged in a complaint. The term "respondent" may be used to designate persons with direct responsibility for a particular action or those persons with administrative responsibility for the procedures and policies in those areas covered in a complaint.

2. Complaint Procedure

- a. **Complaint:** A complaint alleging discrimination or harassment must be submitted in writing. The complaint must contain the following information:
 - Name of the complainant;
 - Contact information, including address, telephone number, email address;
 - Name of person(s) directly responsible for alleged violation(s);
 - Date(s) and place(s) of alleged violation(s);
 - Nature of alleged violation(s) as defined in this policy;
 - Detailed description of the specific conduct that is the basis of alleged violation(s);
 - Copies of documents pertaining to the alleged violation(s);
 - Names and contact information (if known) of any witnesses to alleged violation(s);
 - Action requested to resolve the situation;
 - Complainant's signature and date of filing;
 - Any other relevant information.
- b. **Time Limit:** A written complaint should be filed within 180 calendar days of the occurrence of the alleged violation. Depending on the circumstances, the university may accept and investigate a complaint even if filed after 180 calendar days.
- c. **Third Party Charge:** If a pattern of harassment appears to exist but no complainant files charges, the university may file a third-party charge against an individual. Such charges will be handled with as much care and control as any other complaint so as to avoid acting on rumor or unjustified accusation.

Investigative Process for Employee and Third-Party Related Complaints

The dean or director (or other appropriate administrator) for the area involved will investigate, not as a representative of the complainant, but as an impartial party. If the director is the direct supervisor of the respondent (accused), the vice president will assign an alternative director from within their division so the investigator is not investigating his or her own department. The investigation shall normally be conducted within 20 business days from when the investigation is appointed to the dean or director. Case complexity will vary and the termination of the investigation will depend on case circumstances; however, the investigation will conclude under normal circumstances within 20 business days. It is incumbent upon the investigating official to

document a reasonable justification for extending an investigation beyond 20 business days.

The investigator will interview the complainant and persons who are considered to have pertinent factual information related to the complaint. The investigator will also gather and examine documents relevant to the complaint. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual. Findings will be based on the totality of circumstances surrounding the conduct complained of, including, but not limited to, the context of that conduct, its severity, its frequency, and whether it was physically threatening, humiliating, or simply offensive in nature. The dean or director conducting the investigation may also consult with appropriate management personnel, including the director of human resources, the ADA coordinator, the Title IX coordinator, and/or the general counsel for advice and guidance as applicable.

The university reserves the right to take such action as may be reasonably appropriate upon receipt of a complaint to protect the complainant or university community pending outcome of the investigation, including interim suspension with pay of an employee.

Notification of the Respondent: After investigating the allegations, the dean or director will meet with the respondent, provide them with a copy of the complaint, and give them an opportunity to respond. The respondent may, but is not required to, submit a written response to the allegations in the time prescribed by the investigator.

Report of Findings and Recommendations: The investigator is responsible for preparing a report responding to each allegation that the complainant has made. This report should describe the investigator's findings and conclusions to each allegation. The report should also include a brief overview of the investigative process including the category and number of individuals interviewed, timelines, and a summary of each allegation. Finally, the report should contain the investigator's recommendations for resolution of the matter. This report should be addressed to the appropriate vice president with copies provided to the general counsel, the director of human resources, and the Title IX or ADA coordinator, as applicable.

The vice president shall review the findings and recommendations of the investigator and take such action deemed appropriate. Such action shall be communicated in a letter to the complainant and respondent with copies to the general counsel, director of human resources, and the Title IX or ADA coordinator, as applicable, within 5 business days of receipt from the investigator.

Appeal Process: If the decision of the vice president is not satisfactory to the complainant or respondent, that individual has five (5) business days in which to request a formal hearing of the discrimination complaint review board ("review board"). The request must be put in writing to the vice president issuing the decision. If the vice president concludes that the charges are serious enough to require termination or suspension, the faculty or staff member may be placed on a leave of absence with pay, pending a hearing by the review board and action by the president.

Discrimination Review Board: The review board of three individuals will be selected from a panel of 20 pre-selected faculty members and 20 pre-selected staff members to be appointed by the president. If the respondent is a faculty member, the review board will be composed of at least two faculty members. If the respondent is a staff member, the review board will be composed of at least two staff members. The complainant will select one member and the respondent will select one member from the applicable panel. The two selected members will choose the third person from the panel. None of the review board members shall be from the department of the respondent or the complainant (if applicable). These three individuals will comprise the review board and will elect a chair from among them. The university president may remove any selected review board member if substantial proof of bias exists.

The chair of the review committee is responsible for coordinating the hearing. The complainant, the respondent, and the university all have the right to be advised by counsel, but lawyers will not be allowed to conduct or participate in the hearing. The day prior to the scheduled review committee hearing, each side shall submit a list of its witnesses and four copies of its evidence to the chair. A list of witnesses and copy of the evidence will be provided to each side. The rest of the review committee will not receive the material until the time of the hearing. All materials presented must be maintained in a confidential manner by all parties involved.

The dean or director who conducted the investigation will apprise the review board of the charges and will normally present all relevant evidence. Both parties will have an opportunity to respond to the charges and present evidence. Each party may make a 5 minute opening statement prior to presentation of the evidence. The burden will be on the complainant to prove by a preponderance of the evidence that the respondent has committed an act of unlawful discrimination. Cross examination of the witnesses is allowed by all parties. Each party may make a 5 minute closing statement. The review board is permitted to question the parties and/or witnesses at any time during the proceeding.

The chair of the review board will conduct a fair hearing before the complainant and the respondent and shall allow relevant witnesses and evidence from both parties. The hearing shall be closed to the public. The general counsel and/or the director of human resources may be consulted in procedural matters of the review board and may be present at meetings. All information presented in the hearing is confidential to the extent allowed by law and restricted to only those who have an absolute need to know. The review board will normally have five (5) days after the completion of the hearing to summarize its findings and make a written recommendation to the president.

Review by the President: The president may accept, reject, or modify the decision of the review board and will have access to all evidence, both parties, and witnesses as deemed appropriate. In all instances except those that involve the revocation of tenure or termination with an unexpired

appointment extending beyond the date of the proposed dismissal, the decision of the president is final. In cases that involve the revocation of tenure or termination with an unexpired appointment extending beyond the date of the proposed dismissal, termination proceedings shall commence under university policy 7.29. Such termination proceedings shall not reconsider whether discrimination occurred, but rather determine if good cause exists for dismissal. Pending termination proceedings, a faculty member may be suspended and removed from the university or assigned to other duties with pay at the president's discretion. Final disposition of the case will be communicated to the respondent and the complainant.

Sanctions

University imposed: University sanctions for violations of this policy may include any disciplinary action, up to and including termination of employment for faculty or staff. Such activities may be viewed as constituting a violation of the Faculty Code of Conduct policy (7.11) and grounds for termination under the Tenure policy (7.29), and a major work rule violation under the Discipline and Discharge policy (11.4).

Civil: Unlawful discrimination is illegal under state and federal law. Official governmental investigations by the Equal Employment Opportunity Commission, the Texas Commission on Human Rights, and/or the Office of Civil Rights of the Department of Education may result in civil lawsuits against any person guilty of unlawful discrimination.

False charges may result in disciplinary action against the complainant by the university or civil charges against the complainant by the respondent. An unsubstantiated charge is not considered "false" unless it is found to be made with the knowledge of it being false.

Investigative Process for Student-to-Student Complaints

The dean for student affairs, or their appointee, shall investigate student to student complaints and follow the timeframes described in the preceding guidelines for employees. If student discipline is recommended, policy 10.5, Student Discipline will guide the proceedings. Informal and formal disposition procedures are outlined within the policy; and it contains full due process procedures.

Student Sanctions: Disciplinary action for student-to-student related complaints may range from sensitivity counseling to suspension or expulsion. False charges may also result in disciplinary action. An unsubstantiated charge is not considered "false" unless it is found to be made with knowledge of it being false.

Retaliation

A supervisor or employee commits an unlawful employment practice if the supervisor or employee retaliates or discriminates against a person, who (a) opposes a discriminatory or

harassing practice, (b) makes or files a complaint alleging employment discrimination or harassment, (c) or testifies, assists, or participates in any manner in an investigation, proceeding or hearing. Any employee who retaliates against another employee violates the university's policies and procedures and may be subject to disciplinary action up to and including termination. Instances of alleged retaliation shall be investigated pursuant to the procedures of this policy. A student violates this policy if the student retaliates or discriminates against a person. A student that violates this policy is subject to disciplinary action up to and including expulsion.

The dean/director (or other appropriate administrator) who investigated the complaint will be responsible for monitoring the circumstances surrounding the complaint to insure the situation has been remedied.

Training

The university is required by the Texas Labor Code 21.010 to provide EEO training to each new employee, including student employees on policies regarding discrimination, including sexual harassment, no later than 30 days after the date of hire. In addition, supplemental EEO training is required every two years. All employees will receive a copy of this policy within 30 days of employment. A signed statement verifying attendance is required to be maintained in the employee's personnel file.

Additional training shall be provided in accordance with applicable law.

Cross Reference: Faculty Code of Conduct (7.11); Tenure (7.29); Discipline and Discharge (11.4); Student Discipline (10.5); Sexual Misconduct (2.13); 42 U.S.C. § 2000e, e-2, e-3; 42 U.S.C. § 1981; 20 U.S.C. §§ 1681, 1684; 42 U.S.C. § 12101; 29 U.S.C. § 623; 29 U.S.C. § 794; 29 U.S.C. § 206(d); 8 U.S.C. § 1101; Tex. Lab. Code Ch. 21; Tex. Penal Code § 39.03; Pub. L. 88-352; Pub. L. 102-166; Pub. L. 110-233

Responsible for Implementation: President

Contact for Revision: Title IX Coordinator, Director of Human Resources, and the General Counsel

Forms: None

Board Committee Assignment: Academic and Student Affairs

Sexual Misconduct

Original Implementation: July 27, 2015

Last Revision: July 25, 2017

1. General Policy Statement

Stephen F. Austin State University (university) is committed to maintaining a learning and working environment that is free from sex discrimination. Sexual Misconduct is a form of sex discrimination and will not be tolerated. Individuals who engage in Sexual Misconduct will be subject to disciplinary action.

1.1 The university will take prompt disciplinary action against any individuals or organizations within its control who violate this policy. The university encourages any student, faculty, staff, or visitor to promptly report violations of this policy to an individual identified in Section 4.7.

2. Applicability

This policy applies to all university administrators, faculty, staff, students, and third parties within the university's control, including visitors and applicants for employment. It applies to conduct regardless of where it occurs, including off university property, if it potentially affects the Complainant's education or employment with the university. It also applies regardless of the gender, gender identity or sexual orientation of the Complainant or the Respondent. In addition, it applies whether the reported policy violation was made by or against a third party, and whether the reported policy violation was made verbally or in writing.

3. Definitions and Examples¹

Complainant – refers to the individual(s) who are alleged to have been impacted by a violation of this policy.

Respondent – refers to the individual(s) who is accused of violating this policy.

Consent – involves a voluntary, ongoing, mutual understanding among all participants that indicates a willingness through words or clear unambiguous actions that demonstrate a knowing, intentional agreement to engage in each instance of sexual activity. Knowledge of Consent is the responsibility of each person involved in every instance of sexual activity and Consent can be withdrawn at any time.

¹ The definitions provided in the main body of the text are the definitions adopted by the university. When applicable, we have included the state law definition. In any criminal action brought by law enforcement, the state law definition will apply.

Examples of Ineffective or Absence of Consent

The following list provides examples of when Consent has not been obtained or is not effective. This list is not exhaustive:

Consent is not effective when any participant in the sexual activity is unsure if a knowing, intentional, voluntary agreement to engage in each act of sexual activity has been demonstrated.

Consent is not effective if one person knew or reasonably should have known that another person involved was incapacitated.

Consent to one act does not imply Consent to another.

Past Consent does not imply future Consent.

Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with another.

Any expression of an unwillingness to engage in any instance of sexual activity establishes a presumptive lack of Consent.

Consent is not effective if it results from: (a) the use of physical force, (b) a threat of physical force, (c) intimidation, (d) Coercion, (e) Incapacitation or (f) any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to have sexual activity.

A current or previous dating or sexual relationship, by itself, is not sufficient to constitute Consent. Even in the context of a relationship, there must be a voluntary, mutually understandable agreement that clearly demonstrates a willingness to engage in each instance of sexual activity.

The definition of Consent for the crime of Sexual Assault in Texas can be found in Section 22.011(b) of the Texas Penal Code.²

² Texas Penal Code, Section 22.011(b) states that a Sexual Assault is without Consent if: (1) the actor compels the other person to submit or participate by the use of physical force or violence; (2) 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; (3) the other person has not Consented and the actor knows the other person is unconscious or physically unable to resist; (4) 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; (5) the other person has not Consented and the actor knows the other person is unaware that the Sexual Assault is occurring; (6) 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; (7) 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.

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.

Intimidation – Unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the person to actual physical attack.

Coercion - the practice of compelling another party to act by use of intimidation or threats.

Dating Violence³ – includes abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature. The existence of such a relationship shall be determined by the individual subjected to the violence with consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

Domestic (Family) Violence⁴ – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the individual subjected to the

³ Dating Violence is defined by the Texas Family Code, Section 71.0021 as:

- (a) an act, other than a defensive measure to protect oneself, by an actor that:
 - (1) is committed against a victim:
 - (A) with whom the actor has or has had a dating relationship; or
 - (B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and
 - (2) 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.
- (b) For purposes of this title, "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:
 - (1) the length of the relationship;
 - (2) the nature of the relationship; and
 - (3) the frequency and type of interaction between the persons involved in the relationship.
- (c) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship" under Subsection (b).

Texas Penal Code, Section 22.01 provides the criminal penalties associated with Dating Violence.

⁴ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) 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;
- (2) abuse, as that term is defined by Sections [261.001](#)(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) Dating Violence, as that term is defined by Section [71.0021](#).

violence, by a person with whom the individual subjected to the violence shares a child in common, by a person who is cohabitating with or has cohabitated with the individual subjected to the violence as a spouse or intimate partner, by a person similarly situated to a spouse of the individual subjected to the violence under the domestic or family violence laws of the state of Texas, or by any other person against an adult or youth subjected to the violence who is protected from that person's acts under the domestic or family violence laws of the state of Texas.

Hostile Environment – exists when sex-based harassment is sufficiently severe or pervasive to deny or limit the individual's ability to participate in or benefit from the university's programs or activities or an employee's terms and conditions of employment. A Hostile Environment can be created by anyone involved in a university's program or activity (e.g., administrators, faculty members, employees, students, and university visitors).

In determining whether sex-based harassment has created a Hostile Environment, the university considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was harassed. To conclude that conduct created or contributed to a Hostile Environment, the university must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

To ultimately determine whether a Hostile Environment exists for an individual or individuals, the university considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of the persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and (5) the degree to which the conduct affected an individual's education or employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a Hostile Environment. Indeed, a single instance of Sexual Assault may be sufficient to create a Hostile Environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

First Amendment Considerations: This policy does not impair the exercise of rights protected under the First Amendment.

Other Inappropriate Sexual Conduct – Includes unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of Sexual Harassment but is unprofessional, inappropriate for the workplace or classroom and is not protected speech. It also includes consensual sexual conduct that is unprofessional and inappropriate for the workplace or classroom.

Texas Penal Code Section 22.01 provides the criminal penalties associated with Domestic (Family) Violence.

Preponderance of the Evidence – The greater weight of the credible evidence. Preponderance of the Evidence is the standard for determining allegations of Sexual Misconduct under this policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Responsible Employee –A university employee who has the duty to report incidents of Sexual Misconduct to the Title IX coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible Employees include all administrators, faculty, supervisory staff, residence life directors and advisors, and graduate teaching assistants. Any employee with confidentiality obligations related to their primary duties to the university as defined in Section 4.5 is excepted.

Retaliation – Any adverse action threatened or taken against someone because the individual has filed, supported, provided information in connection with a report of Sexual Misconduct. Retaliation includes, but is not limited to: intimidation, threats, or harassment against any Complainant, responding party, witness, or third party.

Sexual Assaults – Refers to any sexual contact or intercourse with a person without the person’s Consent, including sexual contact or intercourse against the person’s will or in a circumstance in which the person is incapable of Consenting to the contact or intercourse and includes but is not limited to any offense that meets the definition of Rape, Fondling, Incest, or statutory Rape:

- a) *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 person.
- b) *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification without the Consent of the person, including instances where an individual is incapable of giving Consent because of the person’s age or because of a temporary or permanent mental incapacity.
- c) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d) *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of Consent.

5 Sexual Assault is defined by Texas Penal Code, Section 22.011 as intentionally or knowingly:

- a) Causing the penetration of the anus or sexual organ of another person by any means, without that person’s Consent; or
- b) Causing the penetration of the mouth of another person by the sexual organ of the actor, without that person’s Consent; or
- c) Causing 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.

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 infection (STI) to another.

Sexual Harassment – Unwelcome conduct of a sexual nature including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's student status, employment, or participation in university activities; such conduct is sufficiently severe or pervasive that it interferes with an individual's education, employment, or participation in university activities, or creates an objectively Hostile Environment; or such conduct is intentionally directed towards a specific individual and has the effect of unreasonably interfering with that individual's education, employment, or participation in university activities, or creating an intimidating, hostile, or offensive environment. Sexual Harassment is a form of sex discrimination that includes:

- a) Sexual Violence, Sexual Assault, Stalking, domestic violence and Dating Violence as defined herein.
- b) Physical conduct, depending on the totality of the circumstances present, including frequency and severity, including but not limited to:
 - i. unwelcome intentional touching; or
 - ii. deliberate physical interference with or restriction of movement.
- c) Verbal conduct not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea, including oral, written, or symbolic expression, including but not limited to:
 - i. explicit or implicit propositions to engage in sexual activity;
 - ii. gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
 - iii. gratuitous remarks about sexual activities or speculation about sexual experiences;
 - iv. persistent, unwanted sexual or romantic attention;
 - v. subtle or overt pressure for sexual favors;
 - vi. exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials; or
 - vii. deliberate, repeated humiliation or intimidation based upon sex.

Sexual Misconduct – A broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes Sexual Assault, Sexual Exploitation, sexual intimidation, Sexual Harassment, domestic violence, Dating Violence, Stalking, and Other Inappropriate Sexual Conduct. Sexual Misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

Sexual Violence – Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving Consent. The term includes, but is not limited to, Rape, Sexual Assault, sexual battery, sexual Coercion, sexual abuse, indecency with a child, and/or aggravated Sexual Assault.

Stalking⁶ – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition--

- a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the person subjected to the Stalking behavior.
- c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

4. Reporting Violations

4.1 All Members of the University Community, Third Party, and Anonymously Reported Policy Violations.

All administrators, faculty, staff, students, and third parties are strongly encouraged to immediately report any incidents of Sexual Misconduct and Other Inappropriate Sexual Conduct to the Title IX coordinator or one of the deputy coordinators. Reporting options and online reporting forms can be found at the following website: www.sfasu.edu/lumberjacks-care. In addition, a link to reporting information will be maintained on the university home page.

⁶ Stalking as defined by Texas Penal Code, Section 42.072 is when an individual 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:

- a) is considered harassment, or that the actor knows or reasonably should know the other person will regard as threatening:
 - i. bodily injury or death for the other person;
 - ii. 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
 - iii. that an offense will be committed against the other person's property;
- b) 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 in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
- c) would cause a reasonable person to:
 - i. fear bodily injury or death for himself or herself;
 - ii. fear 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;
 - iii. fear that an offense will be committed against the person's property; or
 - iv. feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

a. Anonymity

Individuals wishing to remain anonymous may report a suspected policy violation by completing the online “[Sexual Misconduct Reporting Form](#)” without providing any personal identification, or by telephone or written communication with the Title IX coordinator or a deputy coordinator. Electing to remain anonymous may significantly limit the university’s ability to stop the harassment, collect evidence, or take effective action against individuals or organizations accused of violating the policy. Retaliation against a person making a report or participating in an investigation is prohibited as outlined in Section 9.1 of this policy.

b. Confidentiality

The university has an obligation to maintain an environment free of sex discrimination, thus many university employees have mandatory reporting and response obligations and may not be able to honor a Complainant’s request for confidentiality. Complainants and reporting parties who want to discuss an alleged policy violation in strict confidence may use the resources outlined in Section 4.5.

c. Timeliness of Report

Reports of policy violations should be made as soon as possible after the Complainant or reporting party becomes aware of the inappropriate conduct. Delays in reporting can greatly limit the university’s ability to stop the harassment, collect evidence, and/or take effective action against individuals or organizations accused of violating the policy.

4.2 Responsible Employees

Incidents of Sexual Misconduct may also be reported to Responsible Employees. A Responsible Employee is a university employee who has the duty to report incidents of Sexual Misconduct to the Title IX coordinator or other appropriate designee, or an employee whom an individual could reasonably believe has this duty. Responsible Employees include all administrators, faculty, supervisory staff, residence life directors and advisors, and graduate teaching assistants. Any employee with confidentiality obligations as defined in Section 4.5 is excepted.⁷ Responsible Employees should report incidents of Sexual Misconduct to the Title IX coordinator as soon as possible using the [Responsible Employee - Title IX Reporting Form](#). Responsible Employees can find contact information for the Title IX coordinator and deputy coordinators at the following website: www.sfasu.edu/lumberjacks-care.

⁷ For example, a student may make a report to an employee in the Office of the Dean of Student Affairs, a faculty member, or residence life staff. Each of these individuals is considered a Responsible Employee and accordingly each is obligated to report to the Title IX coordinator or other appropriate designee.

4.3 Reporting to Law Enforcement

Reports of Sexual Misconduct may also be made to the Stephen F. Austin State University Police Department at 936-468-2608 (non-emergency) or 911 (emergency) or to the City of Nacogdoches Police Department 936-559-2607 (non-emergency) or 911 (emergency) or to other local law enforcement authorities. The Title IX Coordinator and deputy coordinators can assist individuals in contacting these law enforcement agencies. Employees and students with protective or restraining orders relevant to a report are encouraged to provide a copy to the University Police Department. Individuals are strongly encouraged to report all criminal violations to law enforcement.

If a report of Sexual Misconduct is made to the University Police Department, it will advise the Complainant of their right to file a report under this policy. To the extent allowed by law and university policy, the University Police Department shall also notify the Title IX coordinator of the report, and provide the Title IX coordinator or the individual investigating the reported policy violation access to any related university law enforcement records, so long as doing so does not compromise any criminal investigation.

4.4 Reporting to Outside Entities

An individual wishing to make a report may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination or Sexual Misconduct including Sexual Violence:

Office for Civil Rights
U.S. Department of Education
1999 Bryan St., Suite 1620
Dallas, TX 75201
Phone: (214) 661-9600
FAX: (214) 661-9587

Employees may also contact the U.S. Equal Employment Opportunity Commission or Texas Workforce Commission Civil Rights Division to complain of sex discrimination or Sexual Harassment:

U.S. Equal Employment Opportunity Commission
Houston District Office
1919 Smith St., 6th Floor
Houston, TX 77002
Phone: (800) 669-4000
FAX: (713) 651-4987

Texas Workforce Commission
Civil Rights Division
101 E 15th St., Rm 144-T
Austin, TX 78778
Phone: (888) 452-4778

4.5 Confidential Support and Resources

Physical and mental health care professionals (including those who act in that role under the supervision of these individuals), are prohibited by confidentiality laws from reporting any information about an incident to anyone, in any way that identifies the Complainant, without the Complainant's permission. University employees who learn of a reportable violation while providing confidential services outlined above are not required to report identifying information to the Title IX coordinator, but are required to submit non-personally identifiable reports so that statistical reports can be accurately produced. Thus, students may discuss an incident with a counselor in the SFA Counseling Center or a health care provider in the Student Health Clinic without concern that personally identifiable information related to the incident will be reported to the Title IX coordinator. Employees may seek assistance from their own personal health care provider or an off-campus resource without concern that the incident will be reported to the Title IX coordinator. More information about university and community resources that provide such confidential services can be found on the following website: www.sfasu.edu/lumberjacks-care.

4.6 Immunity

In an effort to encourage reporting of Sexual Misconduct, the university will grant immunity from disciplinary action to a person who voluntarily initiates a report of Sexual Misconduct or assists a Complainant, or cooperates with the investigation, if that person acts in good faith in reporting a policy violation or participating in an investigation. This immunity does not extend to the person's own violations of this policy.

4.7 Title IX Coordinator and Deputy Coordinators

These are the SFA officials with responsibility for coordinating the university's efforts to comply with and carry out its responsibilities under Title IX and its implementing regulations, including the investigation of reported Title IX violations.

Contact information for the Title IX Coordinator and Deputy Coordinators is outlined below. This information is subject to change. The most updated contact information for the Title IX coordinator and deputy coordinators can be found at www.sfasu.edu/lumberjacks-care.

The SFA Title IX coordinator is the Assistant Dean of Student Affairs for Support Services
Rusk Building, Room 301 | titleIX@sfasu.edu | (936) 468-8292

Deputy Title IX coordinator for Students is the Assistant Dean of Student Affairs for Programming
Baker Pattillo Student Center, Suite 3.302 | titleIXstudents@sfasu.edu | (936) 468-7249

Deputy Title IX coordinator for Faculty, Staff, and Third Parties is the Director of Human Resources
Austin Building, Suite 201 | titleIXemployees@sfasu.edu | (936) 468-2304

Deputy Title IX coordinator for Athletics is the Senior Woman Administrator, SFA Intercollegiate Athletics
SFA Athletic Fieldhouse | titleIXathletics@sfasu.edu | (936) 468-3751

Deputy Title IX coordinator for the SFA Charter School is the CEO/Principal
SFA Charter School | 2428 Raguet Street | titleIXcharter@sfasu.edu | (936) 468-5899

5. Parties' Rights Regarding Confidentiality

The university has great respect for the privacy of the parties in a reported policy violation. Under federal law, however, Responsible Employees who receive a report of Sexual Misconduct must share that information with the Title IX coordinator and/or a deputy coordinator. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the Complainant's or reporting party's request for confidentiality.

In the course of the investigation, the university may share information only as necessary with people who need to know to fulfill the purposes of this policy and applicable law, such as investigators, witnesses, and the Respondent. The university will take all reasonable steps to ensure there is no Retaliation against a Complainant, responding party, witness, or third party. The university will comply with the Family Educational Rights and Privacy Act (FERPA), with Texas Education Code Sec. 51.971, as applicable, and other confidentiality laws as they apply to Title IX investigations. To the extent possible, the university will also protect the privacy of all parties involved in a report of Sexual Misconduct.

6. Resources

6.1 Immediate Assistance

SFA Counseling Center
(936) 468-2401 counseling@sfasu.edu

SFA Student Health Clinic
(936) 468-4008 healthservices@sfasu.edu

SFA University Police
(936) 468-2608 updemail@sfasu.edu

Family Crisis Center of East Texas – Campus Office
(936) 468-7233
(800) 828-7233 (24 hour crisis line)

A. Healthcare

An individual who experiences any form of sexual, domestic, or Dating Violence is encouraged to seek immediate medical care. Also, preserving DNA evidence can be key to identifying the perpetrator in a Sexual Violence case. Individuals can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately.

B. Police Assistance

The university strongly encourages individuals who have experienced Sexual Misconduct to make a report to the police. It is important to note that a police department's geographic jurisdiction depends on where the Sexual Misconduct occurred. If the incident occurred on the university campus, a report may be filed with the SFA University Police Department by calling 936-468-2608 or in person at the police headquarters at 232 East College Street, even if time has passed since the assault occurred. SFA university police can also inform the Complainant on how to obtain a protective order.

Reporting an assault to law enforcement does not mean that the case will automatically go to criminal trial or to a university disciplinary hearing. If the university police are called, an officer will be sent to the scene to take a detailed statement. A report may be filed with the university police even if the assailant is not a university student or employee.

If the incident occurred off-campus a report may be filed with the appropriate law enforcement agency. No matter the location of the incident, SFA university police can assist the Complainant in filing a report with the appropriate law enforcement agency. If a report is made to a law enforcement

agency, an officer will usually contact the Complainant to take a written report.

C. Counseling and Other Services

A person who has experienced Sexual Violence is strongly encouraged to seek medical and psychological care even if the person does not plan to report the assault to the police. A person may be prescribed medications to prevent sexually transmitted infections and/or pregnancy even if the police are not contacted.

In accordance with this policy, students involved in a case alleging any prohibited behavior related to this policy, including any Complainant, reporting party, or responding party, will be offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident, to the greatest extent practicable based on the number of counselors employed by the institution. A referral will be made by the Title IX coordinator or designee to Counseling Services when there is a request made for counseling to inform counseling services of the need for separate appointment times and providers.

Medical care for students can be provided at the Student Health Clinic, at a local emergency room, or by a private physician. Psychological support for students can be provided by the SFA Counseling Center.

Students desiring counseling should contact:
SFA Counseling Center
(936) 468-2401

Faculty and staff should contact:
Family Crisis Center of East Texas
(936) 468-7233
(800) 828-7233 (24 hour crisis line)

6.2 Interim Measures and Ongoing Assistance

In addition to the services provided by on- and off-campus providers, the university will take immediate and interim measures to assure the safety and well-being of the Complainant, to maintain an environment free from harassment, discrimination or Retaliation, and to protect the safety and well-being of community members.

For example, if the accused is an employee, interim action may include reassignment and/or suspension. If the accused is a student, interim action may include suspension, no contact orders, changing living arrangements, modifying the course schedule, or modifying other aspects of the educational environment.

Interim action may also include allowing the Complainant to move to a new residence hall, change work schedules, alter academic schedules, and withdraw from or retake a class without penalty. Moreover, the university may be able to provide additional accommodations for a Complainant while an investigation is pending.

At the outset of an investigation, students alleging policy violations involving violence, including but not limited to Sexual Assault, domestic violence, Dating Violence, or Stalking, and who are enrolled in the same course with a Respondent, may withdraw from the course without any academic penalty as an interim measure. This same option is available to the Respondent.

7. Intake Procedures and Protocol

7.1 Key Officials in an Investigation

A. Title IX Coordinator

The Title IX coordinator is the senior university administrator who oversees the university's compliance with Title IX. The Title IX coordinator is responsible for leading the administrative investigation of reports of Sexual Misconduct and is available to discuss options, provide support, explain university policies and procedures, and provide education on relevant issues. The Title IX coordinator may designate one or more deputy Title IX coordinators.

Any member of the university community may contact the Title IX coordinator or a deputy coordinator with questions.

B. Investigators

The Title IX coordinator will ensure that reported policy violations are properly investigated under this policy. The Title IX coordinator will also ensure that investigators are properly trained at least annually to conduct investigations that occur under this policy.

7.2 Assessment of Reported Policy Violation

The Title IX coordinator or designee will conduct a preliminary assessment of the reported policy violation and determine whether a formal resolution or an informal resolution should occur.

7.3 Notification to Complainant of University Offices Offering Assistance

After receiving a reported policy violation, the Title IX coordinator or deputy coordinator shall inform the Complainant of available resources and assistance.

7.4 Informal Resolution of Certain Sexual Misconduct Reports. (OPTIONAL)

Informal resolution may be appropriate:

- (a) With a report not involving Sexual Violence as defined in this policy; and
- (b) When both parties are categorically similar (i.e. employee/employee or student/student).

If informal resolution is deemed appropriate by the Title IX coordinator or designee, then the individual will be provided assistance with informally resolving the alleged Sexual Misconduct. Assistance may include, depending on the reported policy violation, providing the Complainant with strategies for communicating with the offending party that the behavior is unwelcomed and should cease, directing a university official to inform the offending party to stop the unwelcomed conduct, or other informal resolution designed to stop, remedy and prevent future incidents. However, the university may take more formal action, including disciplinary action, to ensure an environment free of Sexual Harassment or Sexual Misconduct. A Complainant may end this informal process at any time and proceed with a formal report and investigation.

Timeframe

Informal resolutions should be completed no later than 10 business days after the Title IX coordinator receives the request for informal resolution. Should an informal resolution take longer, a justification for the delay will be provided to the parties by the Title IX coordinator.

Confidentiality and Documentation

The university will document informal resolutions. The Title IX coordinator will retain the documentation. If the Complainant or reporting party wishes to remain anonymous, the university's ability to establish facts and eliminate the alleged misconduct will be limited. The university will attempt to find the right balance between the Complainant's desire for privacy and confidentiality and its responsibility to provide an environment free of Sexual Misconduct.

7.5 Formal Complaint and Investigation

Formal Complaint

To begin the investigation process, the Complainant should submit a signed, written statement setting out the details of the conduct that is the subject of the reported policy violation, including the Complainant's name, signature, and contact information; the name of the person(s) directly responsible for the alleged

violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and any documentation or information that is relevant to the reported policy violation. The university may initiate an investigation regardless of the manner in which a reported policy violation is received; however a detailed written complaint may enhance the investigation. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the reported violation to be after the initial interview and ask the Complainant to verify that statement.

Investigation and Finding(s)

- A. An investigator will be assigned to investigate the reported policy violation.
- B. As part of the investigation process, the Complainant and the Respondent will be provided notice of the reported policy violation and be allowed five (5) business days to respond in writing. If the Complainant or Respondent has evidence that there is a conflict of interest or other bias between them and the Title IX coordinator or investigator assigned to the investigation, such individual should describe and provide the evidence of the conflict of interest or bias in their response. Substantiated conflicts of interest or other bias will be handled in accordance with Section 8.3 of this policy.
- C. As part of their response, the Complainant and the Respondent may present any document or information that is believed to be relevant to the reported policy violation.
- D. Persons thought to have information relevant to the reported policy violation will be interviewed and those interviews will be appropriately documented. Both the Respondent and the Complainant may recommend witnesses for interview and suggest questions that should be asked. Neither the Complainant nor the Respondent will normally attend these interviews or the gathering of evidence; however, if either one is permitted to attend, the other shall have the same right.
- E. After the investigation is complete, a written reports will be issued to the Title IX coordinator and the appropriate administrator. The appropriate administrator will depend on the status of the Respondent (i.e., student, faculty, employee, or third party). The report shall include a summary of the reported policy violation and investigation, factual findings, and a conclusion regarding whether a policy violation occurred (based on a Preponderance of the Evidence standard).

⁸ Appropriate report redactions will be made to comply with Texas Education Code, Section 51.971, to the extent applicable.

- F. After the written report is completed, the Complainant and Respondent shall be informed concurrently in writing of the finding(s). Each will be allowed to inspect the report or, at the university's discretion, be provided letters summarizing the findings in the report in keeping with FERPA and Texas Education Code, Section 51.971 to the extent applicable.
- G. If the Respondent is found responsible for violation of this policy, after the appeal process in Section 7.6 has concluded, the matter will be referred to the appropriate administrator who will impose disciplinary action or sanction(s) in accordance with applicable policies and procedures dependent on the status of the Respondent (i.e. student, faculty, or employee).

7.6 Appeal

Each party will have five (5) business days from the date the report/letter is issued via e-mail to each party to submit a written appeal of the finding(s) using the "Sexual Misconduct Appeal of Investigation Findings" online form to the Title IX coordinator. An appeal is not intended to re-hear or re-argue the matter and is limited to the following grounds:

- (a) substantive procedural error that resulted in preventing a fair, impartial, or proper investigation. Deviations from the designated procedures will not be a basis for sustaining an appeal unless material harm or prejudice results;
- (b) discovery of substantial new evidence that was unavailable at the time of the investigation and which reasonably could have affected the findings of the investigator; and/or
- (c) finding(s) not supported by the evidence.

If an appeal is filed, the other party will have two (2) business days to file a response to the appeal.

Appeals will be reviewed within seven (7) business days after being received. The Title IX coordinator will submit all appeal materials to an appeal panel consisting of three (3) members from a pool of trained individuals, typically deputy Title IX coordinators or investigators not affiliated with the matter.

The appeal panel may:

- (a) affirm or uphold the determination;
- (b) request further investigation into the reported policy violation; or
- (c) take such other action as may be warranted under the circumstances.

The Complainant and the Respondent shall be informed concurrently in writing of the decision.

7.7 Standard of Proof

All investigations under this policy will use the Preponderance of the Evidence standard to determine violations of this policy.

7.8 Timelines

Barring any unforeseen and reasonable delays, the university will endeavor to resolve reported policy violations under this policy no later than sixty (60) calendar days after the initial report was received by the Responsible Employee. If the investigation and resolution exceeds sixty (60) calendar days, the university will notify all parties in writing of the reason for the delay and the expected time frame adjustment. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the university may defer its fact-gathering until after the initial stages of a criminal investigation. The university will nevertheless communicate with the Complainant regarding their rights, procedural options, the status of the investigation, and the implementation of interim measures to ensure the safety and well-being of the Complainant. The university will also communicate with the Respondent regarding the rights, procedural options and information regarding the status of the investigation as they relate to the Respondent. The university will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation, or if the fact-gathering is not completed in a reasonable time.

The university will not wait for the outcome of a concurrent criminal or civil justice proceeding to take action. The university has an independent duty to investigate reported policy violations of Sexual Misconduct.

The filing of a complaint under this policy does not excuse the Complainant from meeting time limits imposed by outside agencies. Likewise, the applicable civil or criminal statute of limitations will not affect the university's investigation of the reported policy violation.

7.9 Remedies

In addition to sanctions that may be imposed pursuant to the appropriate disciplinary policy, the university will take appropriate action(s), including but not limited to those below to resolve reported policy violations of Sexual Misconduct, prevent any recurrence and, as appropriate, remedy any effects:

- (a) Imposing sanctions against the Respondent, including attending training, suspension, termination or expulsion;
- (b) Ensuring the Complainant and Respondent do not share classes, working environments, or extracurricular activities;

- (c) Making modifications to the on campus living arrangements of the Respondent or Complainant (if the Complainant requests to be moved);
- (d) Providing comprehensive, holistic support services including medical, counseling, and academic support services, such as tutoring;
- (e) Providing the Complainant extra time to complete or re-take a class or withdraw from a class without academic penalty, and minimizing any financial implications to the extent permitted by applicable law or regulation;
- (f) Determining whether Sexual Misconduct adversely affected the Complainant's university standing;
- (g) Conducting, in conjunction with university leaders, a university climate check to assess the effectiveness of efforts to ensure that the university is free from Sexual Misconduct, and using that information to inform future proactive steps that the university will take;
- (h) Providing targeted training for a group of students or employees if, for example, the Sexual Misconduct created a Hostile Environment in a residence hall, department, student organization, or on an athletic team. Bystander intervention and Sexual Misconduct prevention programs may be appropriate;
- (i) Issuing policy statements or taking other steps to clearly communicate that the university does not tolerate Sexual Misconduct and will respond to any incidents and to any individual who reports such incidents.

These remedies are separate from, and in addition to, any interim measures that may have been provided before the end of the university's investigation. If the Complainant did not take advantage of a specific service (e.g., counseling) when offered as an interim measure, the Complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the Complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

7.10 Sanctions and Discipline

Disciplinary action against faculty and employees will be handled under the university's policies for discipline and dismissal of faculty and employees. Disciplinary actions may include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension, and dismissal. The vice president for university affairs, or designee, will impose disciplinary action, if any, against a student under the university's student disciplinary procedures. Student disciplinary actions may include, but are not limited to, probation, suspension, or expulsion.

In accordance with federal law, when disciplinary action is commenced because of a violation of this policy, both parties will have equal opportunities in all aspects of the sanctioning process including notices and advisor assistance. Further, the standard of proof in determining the outcome will be the Preponderance of the Evidence, as defined in this policy.

8. Provisions Applicable to the Investigation

8.1 Assistance

During the investigation process, a Complainant or Respondent may be assisted by an advisor of their choosing, however, the advisor may not actively represent the Complainant or Respondent in any meeting or interview. Failure to abide by this policy may result in the advisor being dismissed from the meeting or interview.

8.2 Documentation

The university shall document reported policy violations and their resolution and retain copies of all materials in accordance with state and federal records laws and university policy.

8.3 Conflicts of Interest

In the event a conflict of interest (or related bias) exists between a Complainant/Respondent and a university official responsible for any part of the investigation or disposition of the reported policy violation, the university will determine if a conflict of interest (or other related bias) exists, and, if so, make appropriate substitutions for that individual's role in the process.

9. Additional Conduct Violations

9.1 Retaliation

Any administrator, faculty member, student, or employee who knowingly and intentionally engages in any retaliatory action or behavior against any individual(s) involved in a case or investigation is subject to disciplinary action up to and including dismissal or separation from the university. Individuals considered involved in a case or investigation include, but are not limited to, the Complainant(s); Respondent(s); any witness(es); and anyone who has submitted a reported violation, provided information in connection with a violation, and/or participated in an investigation or disciplinary process of a reported violation..

9.2 False Reports

A charge of filing a false report may be made by the university against any person who knowingly and intentionally files a false report under this policy. An individual found responsible is subject to disciplinary action up to and including dismissal or separation from the university. A finding of non-responsibility does not indicate a report was false.

9.3 Interference with an Investigation

Any person who knowingly and intentionally interferes with an ongoing investigation conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the university. Interference with an ongoing investigation may include, but is not limited to:

- (a) attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
- (b) removing, destroying, or altering documentation relevant to the investigation; or
- (c) providing false or misleading information to the investigator, or encouraging others to do so.

9.4 No Effect on Pending Personnel or Academic Actions Unrelated to the Reported Policy Violation

The filing of a report under this policy will not stop or delay any action unrelated to the report, including: (1) any evaluation or disciplinary action relating to a Complainant who is not performing up to acceptable standards or who has violated university rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a university employee. Nothing in this section shall limit the university's ability to take interim action.

10. Dissemination of Policy and Educational Programs

10.1 Policy Availability and Access

This policy is available to the public online at <http://www.sfasu.edu/policies/>; additionally, a direct link to the policy can be found on the Lumberjacks-Care website (www.sfasu.edu/lumberjacks-care) to provide additional related information and resources identified in the policy. References to this policy and related resources will also appear in other university publications. Periodic notices will be sent to university administrators, faculty, staff, and students about the university's Sexual Misconduct policy. All currently enrolled students will be sent email notices at the start of each academic term before the official reporting date. The notice will include information about Sexual Misconduct, including the reporting procedure, and about university disciplinary policies and available resources, such as support services, health, and mental health services. The notice will specify the right to file a complaint under this policy and with law enforcement and will refer individuals to designated offices or officials for additional information.

10.2 Ongoing Sexual Misconduct Prevention Training and Lumberjacks Care Public Awareness Campaign

The university's commitment to raising awareness of the dangers of Sexual Misconduct includes offering ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained university personnel. The university will regularly educate and train employees and supervisors regarding the policy and conduct that could constitute a violation of the policy. Preventive education and training programs will be provided to university administrators, faculty, staff, and students and will include information about risk reduction, including bystander intervention. Training on Sexual Harassment and Sexual Violence policy and procedures will be provided to law enforcement personnel, including training on their obligation to advise university administrators, faculty, staff, and students of their rights to file a complaint under this policy and their right to file a criminal complaint. More information about training and our Lumberjacks Care public awareness campaign can found at <http://www.sfasu.edu/Lumberjacks-Care/>

10.3 Training of Coordinators and Investigators

All Title IX coordinators, deputy coordinators, investigators, and those with authority over the administration of this policy shall receive training each academic year on the elements of this policy.

11. Annual Reporting and Notice

The university's non-discrimination statement will be made available to all students, faculty, and employees online, in required publications, and in specified departments. On a regular basis, and upon any updates to this policy, the university will send notice of its compliance with Title IX as required by law. The notice shall designate the Title IX coordinator and deputy coordinators, explain which offenses are prohibited and where to report violations of this policy, provide information regarding available resources, and provide a link to this policy and other related university websites.

Cross Reference: Faculty Code of Conduct (7.11); Faculty Disagreements (7.25); Tenure (7.29); Discipline and Discharge (11.4); Grievance and Appeals (11.15); Student Code of Conduct (10.4); 42 U.S.C. § 2000e, e-2, e-3; 42 U.S.C. § 1981; 20 U.S.C. §§ 1681, 1684; 42 U.S.C. § 12101; 29 U.S.C. § 623; 29 U.S.C. § 794; 29 U.S.C. § 206(d); 8 U.S.C. § 1101; Pub. L. 88-352; Pub. L. 102-166; Pub. L. 110-233; Tex. Lab. Code Ch. 21; Tex. Penal Code § 39.03; Tex. Educ. Code §§ 51.9363-9366

Responsible for Implementation: President

Contact for Revision: Title IX Coordinator

Forms: [Sexual Misconduct Reporting](#) Form, [Sexual Misconduct Appeal of Investigation Findings](#) Form, [Responsible Employee - Title IX Reporting Form](#)

Board Committee Assignment: Academic and Student Affairs

Dual Employment

Original Implementation: Unpublished

Last Revision: July 26, 2016

Employees who are employed in two positions within Texas government must have prior board approval and are subject to the following provisions:

1. Separate leave records will be maintained for each employment.
2. Time worked in one position may not be used as additional tenure credit for purposes of longevity or annual leave accrual for the other position.
3. Upon termination of one employment, the leave balances accrued under that employment may not be transferred to the remaining employment.
4. The state's contribution towards the taxes imposed on the employee by the Federal Insurance Contributions Act may not exceed the overall limit specified in the General Appropriations Act. The comptroller shall prescribe such uniform accounting and reporting procedures as necessary to ensure that expenditures for this purpose do not exceed this limit.
5. The total state contribution toward the employee's group insurance will be limited to no more than the amount specified in the General Appropriations Act for one full time active employee.
6. The employee will be entitled to receive longevity payment for no more than one employment.
7. Overtime compensation will accrue for each employment totally independent of the other, except that when an employee works in a dual employment capacity where the employee is subject to the overtime provisions of the Fair Labor Standards Act (FLSA) of 1938, 29 U.S.C., sec. 201 et seq., in either employment, the employing agency or agencies must consider all combined time worked in excess of 40 hours per week as overtime and compensate the employee in accordance with the FLSA provisions applicable to joint employment relationships. In cases where the dual employment is with two separate agencies, the two agencies shall coordinate in order to determine which agency shall have the responsibility to assure that the employee is properly compensated in accordance with such provisions.
8. Employees must inform both employers before accepting additional employment with the state.

Cross Reference: Tex. Const. art. XVI, §§ 33, 40; Tex. Gov't Code §§ 667.001-.007; General Appropriations Act; Fair Labor Standards Act, 29 U.S.C. §§ 201-219

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Human Resources

Forms: None

Board Committee Assignment: Academic and Student Affairs

Property Inventory and Management

Original Implementation: September 28, 1996

Last Revision: November 2, 2015

Stephen F. Austin State University will comply with Texas Government Code § 403.2715, university policies, and procedures outlined in the property management manual. Property acquired under federal or state grants and contracts will be identified and maintained according to the same guidelines as the university's centralized property management and control described herein, except as otherwise stipulated by the grant.

PROPERTY RESPONSIBILITY AND ACCOUNTABILITY

Director of procurement and property services and property manager - The president has delegated to the director of procurement and property services and the property manager responsibility for the overall management of university property, maintenance and control of centralized property records, and disposition of surplus and salvage property.

Equipment manager - The chair or administrative head of a department is designated equipment manager for the department. The equipment manager may not delegate this responsibility. The equipment manager is ultimately liable for any property listed on his/her department property records.

Designee - The equipment manager may name a designee to receive and submit property communications on his/her behalf. The designee does not assume property responsibility or liability in lieu of the equipment manager. The designee may sign property documents on behalf of the equipment manager. The equipment manager is responsible to assign property responsibility to the employee who uses and/or is entrusted with property on a daily/regular basis.

Property Custodian - The property custodian is any employee who is listed on property records as entrusted with the care and safekeeping of specific pieces of property, and is liable for any university property assigned to him/her. If the equipment manager fails to assign property to a property custodian, the property manager will contact the department and assign custodial responsibility to the employee who uses and/or is entrusted with property on a daily/regular basis. The property custodian is responsible to be able to locate all equipment for which he/she is responsible during the annual property audit, spot-check audit, or audits by audit services or state auditors.

All University Employees - All employees are required to sign the property liability acknowledgement form advising that he/she may be entrusted with university property. The property liability acknowledgement described in Property Liability (16.22) advises the

employee that he/she will be held financially responsible for any property determined to be damaged, destroyed, missing, or stolen due to employee negligence, regardless of whether the employee is identified as a property custodian on property records.

PROPERTY DEFINITIONS

Property is defined and will be accounted for in accordance with Texas Government Code § 403.272. The property manager, in conjunction with the director of procurement, and with appropriate administrative approval may define additional equipment to be tracked in property records. Property definitions include purchased or donated property. The department is responsible to notify the property manager of any donations to determine if the property must be added to property records.

PROPERTY VALIDATION

Each equipment manager and property custodian is to exercise care and control over the property for which he/she is responsible. Property is to be monitored on a perpetual basis both by the property office and by university employees.

Annual Property Inventory Audit - Once per year a property inventory audit will be conducted one of two ways: 1) physical count by department, or 2) RFID scan by the property office. An official property report and certification must be returned to the property manager by the deadline stated in the annual property inventory instructions. Reports in campus mail will not be considered received.

Departments failing to return the official property report and certification to the property manager by 5:00 p.m. on the deadline date will be given a 2nd deadline and will have all ordering, including p-cards, shut down until the official property report and certification are received in the property manager's office. Reports in campus mail will not be considered received.

Failure to return the official property report and certification to the property manager by 5:00 p.m. on the 2nd deadline will result in all ordering continuing to be shut down until the official property report and certification are received in the property manager's office. In addition, department information, including, but not limited to, department name, department head and property values will be reported to the Board of Regents at the next regularly scheduled meeting. Reports in campus mail will not be considered received.

Computer Inventory - Departments must complete an annual computer inventory to facilitate the purchase of campus-wide software licenses and annual analysis of computers for the university computer replacement plan.

Spot-Check Audit - Spot-check audits will be conducted by property personnel throughout the year except during annual property inventory.

Monthly Transaction Statements - Transaction information for all additions and deletions to each department's property records will be emailed monthly to the equipment manager and his/her designee, along with a request to update location and custodian information.

Adjustment Of Property Records - Employees are to advise the property office throughout the year of the following changes.

1. Equipment Manager - procedures apply to both outgoing and incoming department heads (interim or permanent); information regarding the change must be completed within 30 days of assuming or relinquishing duties.
2. Property Custodian - procedures apply at any time there is a change in the employee who uses and/or is entrusted with property on a daily/regular basis. The Change in Property Custodian form must be completed within 30 days of the change.
3. Property locations should be updated in a timely manner. Property custodians must be able to identify property locations at any point in time.

Detailed Department Property Control Plan – Departments may be required to write a detailed plan for monitoring and accounting for department property. A template for the plan will be provided by the property manager.

USE OF STATE PROPERTY

In accordance with Texas Government Code § 2203.004 university property may be used only for state/university purposes. University property in the custody of any Stephen F. Austin State University employee may not be loaned, sold, traded, thrown away, cannibalized, or disposed of in any manner without the prior authorization of the property manager.

Removal of Property from Campus – University property may be taken off campus only for official business of the university or another state agency. The individual taking equipment off campus assumes financial responsibility and must complete a removal of property from campus form.

Items containing potentially sensitive, private or confidential information are not to be stored in any leased premises unless specifically authorized in writing by the President. These items include but are not limited to computers, electronic or digital storage devices, and paper documents. Certain off-campus facilities may lack the security necessary to protect such sensitive information.

Loaning Property to Another Agency – University property may be loaned to another state agency or institution of higher education. The president must approve the loan of the property in writing and receipt of the property must be acknowledged in writing by the head of the borrowing agency.

TRAINING

Mandatory training is required for all equipment managers, designees, and property custodians. After initial training, refresher training is required every two (2) years. All training is documented in the university's myTraining system.

Failure to complete training within 30 days of notification (equipment manager, designee, or property custodian) will result in having the individual's p-card inactivated. Failure to complete training within 60 days of notification will result in all ordering for the department, including p-cards, being shut down until the employee completes training.

The property manager may extend the training timeframes for employees on FMLA leave, out of the country, or as otherwise deemed appropriate and approved by the director of procurement and property services/HUB coordinator.

SALVAGE AND SURPLUS PROPERTY

Salvage Property – Salvage property is any personal property which through use, time or accident is so depleted, worn out, damaged, consumed, or outdated that it is obsolete and/or can no longer serve the purpose for which it was originally intended. Salvage property may be discarded or retained for cannibalization of parts, but should be identified for deletion from property records with appropriate documentation and property manager approval. Data processing equipment can never be declared salvage.

Surplus Property – Surplus property is any personal property that is in excess of the needs of the department and which is not required for its foreseeable future. Surplus property may be new or used but must have additional useful life. Surplus property may be traded in, transferred to another department or transferred to surplus with appropriate documentation.

PROPERTY DISPOSAL

University property is to be disposed of as described in the property management manual, with the exception that disposition of property acquired through federal or state grants and contracts must respect the terms of the grant or contract under which it was acquired. The property manager will determine the disposal option that complies with Texas Government Code § 2175.304 and § 2175.905 and best meets the needs of the university.

All property sales, including scrap metal, are to be overseen by the property office. All sale proceeds will be deposited to the surplus sales account, unless otherwise approved by the vice president for finance and administration.

Where possible hard drives (“loose”, internal or external), memory cards from printers or scanners, or copiers must have all data removed before final disposal of the property.

- Memory cards from printers or scanners will be destroyed by the property manager.
- Hard drives will be degaussed, destroyed, or overwritten and the disposal will be documented .
- Procurement will work with departments to document that data stored on copiers is removed before a copier leaves the campus.

MISSING OR STOLEN PROPERTY

Stolen Property – Stolen Property is any personal property that has disappeared by known theft, whether by forced removal, burglary, theft by employee, or other criminal act. Stolen property must be reported immediately to the property manager in conjunction with immediately filing a stolen report with university police.

A missing or stolen property report must be completed within 24 hours of reporting the stolen property. The property office will make a determination of negligence on the part of the equipment manager and/or property custodian, or any other employee; see Property Liability (16.22). Failure to report stolen property to the property manager and/or university police immediately may result in a determination of negligence.

Missing Property – Missing property is any personal property that has disappeared with no explanation, the loss of which must be reported immediately to the property manager.

A missing or stolen property report must be completed within 24 hours of reporting the missing property. The property office will make a determination of negligence on the part of the equipment manager and/or property custodian, or any other employee; see Property Liability (16.22). Failure to report missing property to the property manager immediately may result in a determination of negligence.

DEPARTMENTAL FINES AND REQUIREMENTS

The following fines and requirements will be imposed for missing property:

1. The department will be fined as follows:
 - a) \$1000 – for two items valued at \$500 or more each, reported missing in the same fiscal year

- b) \$2500 – for three to five items of any value reported missing in the same fiscal year
 - c) \$5000 – for more than five items of any value reported missing in the same fiscal year
 - d) in the following fiscal year if additional property is reported missing the above fines will double
 - e) if missing property is found within 30 days of the fine’s being assessed, the value of the equipment will be refunded up to a maximum of \$500 per item, but never exceeding the amount of the original fine
- 2) Within 30 days of notification of a fine, all employees identified by the property office will be required to complete property training. The employees identified may include equipment manager, designee, property custodian, or any other employee. Failure to complete the training within 30 days of notification will result in all ordering (requisition and p-card) being shut down for the entire department until the training is completed by all identified employees. Extensions of the 30-day limit may be made by the property manager as deemed appropriate and approved by the director of procurement & property services.
- 3) Within 60 days of notification of a fine, the equipment manager will be required to prepare a detailed department property control plan using the template provided by the property office. Failure to complete the plan within 60 days of notification will result in all ordering (requisition and p-card) being shut down for the entire department until the plan is received.
- 4) Any appropriations withheld from the university due to exceeding the allowed value threshold of missing property, as defined in the General Appropriations Act, will be deducted from the budget of the department responsible for the property.

INDIVIDUAL EMPLOYEE NEGLIGENCE

In accordance with Texas Government Code § 403.275 all university employees are liable for the State of Texas property that they use. A determination of negligence will result in one or more employees being held liable to replace property or reimburse the university the determined value of property. See Property Liability (16.22) and the property management manual for definitions and requirements associated with negligence.

Cross Reference: Tex. Gov’t Code §§ 403.2715, 403.272, 403.273(h), 403.275; Tex. Gov’t Code § 2054.003(3)(A); Tex. Gov’t Code §§ 2175.304, .905, .908; Tex. Gov’t Code § 2203.004; Department of Information Resources Security Control Standards Catalog; Property Liability (16.22)

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Procurement and Property Services/HUB Coordinator

Forms: Annual Property Inventory Audit Certification (provided with Annual Property Inventory Packet), Certification of Physical Inventory with Change In Equipment Manager (Department Head) (ITS Forms Server), Department Property Control Plan Template (ITS Forms Server), Missing, Damaged or Stolen Property Report (ITS Forms Server), Police Report (available from University Police Department), Change in Property Custodian (ITS Forms Server), Property Liability Acknowledgement (HR), Property Transfer Form – Department to Department (ITS Forms Server), Property Transfer Form – Department to Surplus (ITS Forms Server), Removal of Property from Campus Request (ITS Forms Server), Salvage Property Request (ITS Forms Server)

Board Committee Assignment: Finance and Audit

Solicitation on Campus

Original Implementation: July, 1980

Last Revision: April 14, 2015

Definitions

1. Solicitation means the sale or offer for sale of any property or service, whether for immediate or future delivery, and the receipt of or request for any gift or contribution. However, this term does not apply to an appointment between a student or employee, and another person (solicitor), if the appointment does not interfere with or disturb the normal activities of the student or employee, or the university.
2. Campus shall mean all real property over which the university has possession and control by law.
3. University group shall mean a recognized student, faculty, or staff organization.
4. Outside group shall mean any organization or group that is not included within the term "university group."
5. University agent shall mean a person acting in the course and scope of his/her employment on behalf of an academic college, department, or program, or a university council, committee, or auxiliary enterprise.
6. University function shall mean any activity directly sponsored by the university.
7. University department shall mean any academic or administrative department of the university.

Application

1. University functions shall be governed by other policy.
2. Religious groups not affiliated with the university shall be governed by the section on religious groups of this policy.
3. Offers to buy complimentary copies of textbooks are specifically prohibited anywhere on the campus or in any building.

Time, Place, and Manner Regulations

1. No solicitation shall be conducted in any building or structure on the campus. However, the following activities shall not be deemed to be solicitations prohibited by this section:
 - a. From the day the residence halls open through the first day of classes each semester, the sale or offer for sale of any newspaper in an area designated by the appropriate university official.
 - b. The distribution, sale or offer for sale of any newspaper, magazine, or other publication by means of a vending machine or rack in an area designated in advance by the appropriate university official.

- c. The sale or offer for sale of any food or drink item by means of a vending machine in an area designated in advance by the appropriate university official.
 - d. The sale or offer for sale of any publication of the university or of any book or other printed material to be used in the regular academic work of the university.
 - e. The operation by the university or its subcontractor of any bookstore, specialty store, laundry service, cafeteria, student center, or other service facility maintained for the convenience of the students, faculty, and staff.
 - f. The sale or offer for sale by the university or its sub-contractor of food and drink items, programs, and tickets at athletic contests.
 - g. The collection of membership fees or dues by a university group.
 - h. The collection of admission fees for the exhibition of movies or other programs that are sponsored by the university, or a university group, and are scheduled in accordance with the Use of University Facilities (16.33) policy.
 - i. The posting of ads and for sale notices in newspapers or on bulletin boards designated for such purposes by the appropriate university official, provided that such ads and notices posted on bulletin boards conform to the university Signs and Exhibits (16.24) policy.
 - j. University recognized groups conducting fund raising activities approved by the appropriate university official. The university requires that only members of the group approved to conduct fundraising may solicit directly. Non-members may not be used to solicit on behalf of the organization.
 - k. Other solicitation activities as approved by the appropriate university official.
2. No solicitation shall be conducted on the grounds, sidewalks, and streets of the campus except by:
 - a. a university agent; or
 - b. a university group.
 3. Only university departments and the SFA Alumni Association may be approved to solicit as agents of a commercial organization.
 4. Solicitation conducted on the campus must not:
 - a. disturb or interfere with the regular academic or institutional programs of the university;
 - b. interfere with the free and unimpeded flow of pedestrian and vehicular traffic on the sidewalks and streets and at places of entry and exit to university buildings;
 - c. harass or intimidate the person or persons being solicited; or
 - d. violate an exclusivity agreement entered into with the university.
 5. If an individual or group violates the provisions of this policy, the appropriate university official, with the approval of the vice president to whom he/she reports, may prohibit the offender from engaging in any solicitation on the university campus for a specified period of time not to exceed one (1) year. In the case of a repeated violation of these rules, the following sanctions shall apply:
 - a. The appropriate university official with the approval of the vice president to whom

- he/she reports, may suspend or cancel the recognition status of an offending student organization.
- b. The appropriate university official, with the approval of the vice president to whom he/she reports, may suspend the use of university facilities by an offender in accordance with the Penalty and Hearing section of the Use of University Facilities (16.33) policy;
 - c. The university may prosecute an offender for trespass in accordance with Chapter 51 of the Texas Education Code.

Procedures for Conducting Raffles on Campus

1. University groups authorized to conduct raffles under the Charitable Raffle Enabling Act (Tex. Occ. Code Ch. 2002) may conduct raffles on campus.
2. All proceeds from the sale of tickets must be spent for the charitable purposes of the organization.
3. The qualified university group is limited to two (2) raffles per calendar year (January 1 - December 31) and may not conduct more than one (1) raffle at a time. This will be monitored by the Office of Student Organizations and Greek Life.
4. The sponsoring university group may not promote the raffle through television, radio, newspaper, or other medium of mass communication by the use of paid advertising, or promote or advertise statewide, other than on the university group's internet website or through a publication or solicitation, including a newsletter, social media or e-mail, provided only to previously identified supporters of the university group. The tickets for the raffle may not be sold or offered for sale statewide.
5. The university group conducting the raffle may not compensate a person directly or indirectly for organizing or conducting a raffle or for selling or offering to sell tickets to the raffle, unless that person is employed by the university group and the work organizing or conducting the raffle is no more than a de minimis portion of that person's employment with the university group. Persons who are not members of the university group may not sell or offer tickets to the raffle.
6. The university group conducting the raffle must have the prize in its possession or post bond for the full amount of the money value of such prize before raffle tickets are sold. The prize awarded at a raffle may not be money and the value of the prize may not exceed \$25,000. The following must be printed on each raffle ticket sold or offered for sale:
 - a. the name of the university group conducting the raffle and the address of the organization or of a named officer of the organization;
 - b. the price of the ticket; and
 - c. a general description of each prize that has a value of more than \$10 and is to be awarded in the raffle.

Financial Policies of Student Organizations

1. The dean of student affairs may request a financial statement of any student organization at any time. The requirements of the financial statement shall be established by the dean of student affairs.
2. Any registered student organization failing to comply with the provisions of this section may be subjected to sanctions provided by the Time, Place, and Manner Regulations section.

Additional Rules

In addition to these rules, solicitation conducted in:

- a. residence halls must comply with the rules governing residence halls.
- b. the Baker Pattillo Student Center must comply with the rules governing the Baker Pattillo Student Center; and
- c. academic buildings must comply with the rules governing academic buildings.

Cross Reference: U.S. Const. amend. I; U.S. Const. amend. XIV, §1; Charitable Raffle Enabling Act, Tex. Occ. Code Ch. 2002; Tex. Educ. Code §§ 51.204, 101; Use of University Facilities (16.33); Signs and Exhibits (16.24)

Responsible for Implementation: Vice President for University Affairs

Contact for Revision: Dean of Student Affairs

Forms: Fundraising Approval

Board Committee Assignment: Building and Grounds

Vacation Leave

Original Implementation: Unpublished

Last Revision: January 26, 2016

Employees of the university, other than faculty with appointments of less than twelve months, shall, without deduction in salary, be entitled to a vacation in each fiscal year. SFA Charter School teachers are excluded from this policy. Additionally, this policy will not apply if alternative leave benefits were negotiated in a contract agreement with an employee.

Additionally, employees excluded from this policy include those who do not work at least 20 hours per week for a period of at least 4.5 months or employees in positions that require student status. An employee will earn vacation entitlement beginning on the first day of employment with the state and terminating on the last day. Vacation with pay may not be granted until the employee has had continuous employment with the state for six (6) months, although credit will be accrued during that period. Such entitlement shall be earned as listed below:

Employees with Total State Employment of:	Hours Accrued Per Month	Maximum Hours to Carry Forward from One Fiscal Year to Next Fiscal Year
0 but less than 2 years	8	180
2 but less than 5 years	9	244
5 but less than 10 years	10	268
10 but less than 15 years	11	292
15 but less than 20 years	13	340
20 but less than 25 years	15	388
25 but less than 30 years	17	436
30 but less than 35 years	19	484
35 and over years	21	532

Vacation credit for the higher rate of accrual as shown on the chart above shall be given on the first calendar day of the month if the employee's anniversary date falls on the first calendar day of the month; otherwise, the increase will occur on the first calendar day of the following month.

Part-time employees are also eligible for annual leave, but their accrual rate and maximum annual leave carryover amounts are proportionate to the number of hours they work. For example, half-time employees earn and carry over annual leave at one-half the rate authorized for full-time employees.

The annual leave hours in excess of the maximum allowable carryover left at the end of a fiscal year shall be credited to the employee's sick leave balance. If the employee is on any type paid leave that extends into the following month, the accrual will not be posted until the employee returns to duty. An employee forfeits this accrual if he or she fails to return to duty.

Time during which any employee is excused from work because of holidays shall not be vacation.

If a state employee transfers directly from one state agency to another, they shall be entitled to credit with the newly employing agency for accumulated but unused vacation entitlement, provided that employment with the state is uninterrupted. A state employee who resigns, is dismissed, or departed from state employment shall be entitled to be paid for all vacation time duly accrued at the time of separation from state employment, provided the employee has had continuous employment with the state for six (6) months.

Vacation leave for -non-faculty employees must be approved in advance by the appropriate supervisor. Non-faculty employees must request vacation using either a Request for Vacation, Compensatory Time, Sick Leave Taken form, the system leave request form (electronically), or document the leave in a manner established and documented by the department head. Every effort should be made to accommodate the vacation requests, but supervisors may request that such leave be taken during periods other than departmental peak work periods.

Cross Reference: Tex. Gov't Code §§ 661.152-.153

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Human Resources

Forms: Request for Vacation, Compensatory Time, Sick Leave Taken form (available from Human Resources)

Board Committee Assignment: Finance and Audit

Sick Leave

Original Implementation: Unpublished

Last Revision: April 25, 2017

Regular, consistent attendance and punctuality is expected of all university faculty and staff, as well as the proper use of leave time when an absence is necessary.

Accrual of Sick Leave

Employees of the university, whose positions do not require student status as a condition of employment, shall, without deduction in salary, be entitled to sick leave subject to the following conditions. Employees of the SFA Charter School will earn sick leave according to charter school policy.

Sick leave entitlement shall be earned, beginning on the first day of employment, at the rate of eight (8) hours for each month or fraction of a month of employment, and shall accumulate with the unused amount of such leave carried forward each month. An employee who is on leave the first day of the month may not use the sick leave that the employee accrues for that month until after a return to duty. Such leave accrual shall terminate on the last day of duty.

An employee's accrued sick leave balance will be transferred when an employee moves from employment in one state agency to another, provided the employment is uninterrupted. Part-time employees working at least 20 hours per week accrue sick leave proportionately to their FTE.

Employees employed by multiple agencies cannot accrue sick leave at a rate that exceeds that of a full-time, 40-hour-per-week employee.

Separation from Employment

Employees of the university who separated from employment under a formal reduction in force are entitled to have their sick leave balances restored if they are re-employed by the state within 12 months. Employees separated from the university, for reasons other than a formal reduction in force, and re-employed by SFA may have their sick leave balances restored only if:

1. The employee is re-employed by the university within 12 months after the end of the month in which the employee separates from employment, but only if there has been a break in employment from the university of at least 30 calendar days; or
2. The employee is re-employed by a different state agency or institution of higher education within 12 months after the end of the month in which the employee separated from the university.

The university has no authority to pay out an employee's accrued but unused sick leave balance upon termination. An employee who is restored to employment at the university following military service is entitled to have his or her sick leave balance restored. Employee Retirement System (ERS) retirees who return to state employment will not have their sick leave balances restored.

Funds appropriated for salaries and wages may be paid for all of the employee's accumulated vacation leave and for one-half of his/her accumulated sick leave, or for 336 hours of sick leave (whichever is less), to the estate of an employee when said employee dies while employed by the university. The employee must have had continuous employment with the university for at least six months at the time of death. The payment shall be calculated at the rate of compensation being paid the employee at the time of death.

Sick Leave Utilization

Sick leave with pay may be taken when sickness, injury, or pregnancy and confinement prevent the employee's performance of duty, or when a member of the employee's immediate family is actually ill. For purposes relating to regular sick leave, immediate family is defined as those individuals related by kinship, adoption or marriage that are living in the same household; foster children who reside in the same household; and minor children regardless of whether they live in the same household. Sick leave may be used to care for immediate family members who do not reside in the same household only for a documented medical condition. In this instance only, "immediate family" is interpreted as spouse, parent, or child. An employee who is the legal guardian of a child by court appointment may use sick leave to care for the child. Sick leave may be used for the adoption of a child under the age of three. An employee who must be absent from duty because of illness shall notify their supervisor or cause the supervisor to be notified of that fact at the earliest practical time.

To be eligible for accumulated sick leave with pay during a continuous period of more than three (3) working days, an employee absent due to illness shall send to the administrative department head a doctor's certificate verifying the employee was out due to medical reasons. If an illness results in the absence of three (3) working days or less, the administrative head has the discretion to require documentation verifying the employee was out due to medical reasons. Upon returning to duty after sick leave, an employee shall immediately complete either a Request for Vacation, Compensatory Time, Sick Leave Taken form, request/report the leave electronically through the system leave request form, or document the leave in a manner established by the department head.

An employee may use sick leave while he or she is on annual leave.

Participation by any employee in an organized work stoppage has been declared to be against the public policy of the state of Texas. In any case when there is substantial evidence to

indicate that an organized work stoppage exists in any division or department of the university, an employee reporting ill shall send to the administrative head of his/her department or division a doctor's certificate showing the cause or nature of the illness to be entitled to sick leave.

Sick Leave Utilization for Faculty:

Faculty must submit leave forms (as designated by the department head) for all sick leave the faculty member takes if the absence occurs during the normal workday for regular employees, even if no classes are missed.

Faculty are allowed to use their sick leave for personal or family illness and for personal leave within these guidelines:

- If a faculty member needs to take time off to handle personal business, personal leave may be used for that purpose with prior approval from their department head.
- If a faculty member misses a class, even if a substitute covers the class, the time missed is to be reported.
- If a faculty member is out on a continuous basis, two days or more, they must turn in leave for 8 hours for each day.
- If a faculty member misses office hours, due to illness or personal business, they must turn in leave for the time missed.

Extension of Sick Leave:

Pursuant to sections 661.202(i) and (j) of the Texas Government Code, an extension of sick leave may be granted through the university policies of Family and Medical Leave (12.9) or Leave of Absence (12.11) or utilization of the sick leave pool.

Sick Leave for Educational Activities:

An employee may use up to eight (8) hours of sick leave each fiscal year to attend school sponsored educational activities of the employee's children who are in pre-kindergarten through 12th grade, including a parent-teacher conference, tutoring, volunteer program, field trip, classroom program, school committee meeting, academic competition, and athletic, music or theater program.

Donation of Sick Leave to an Employee

Employees may donate any amount of their accrued sick leave to another employee who:

- Is employed by the university;
- Is eligible to accrue and use sick leave; and
- Has exhausted all of their sick leave, including time the employee may be eligible to receive as an award from the sick leave pool.

Employees may not provide or receive remuneration or a gift in exchange for a sick leave donation.

The use of sick leave donated to the recipient employee must follow the same conditions as normal accrued sick leave as outlined in this policy.

Donated sick leave cannot be used towards ERS retirement service credit.

Donated sick leave cannot be transferred to another state agency.

Donated sick leave cannot be paid out to the estate of an employee if the recipient employee passes away.

Donated sick leave hours will be lost when the recipient employee leaves employment and will not be reinstated if the recipient is rehired by the university at a later date.

Donated sick leave hours do not get returned to the donor if the recipient does not use them all.

Sick Leave Pool

The university maintains a sick leave pool to benefit certain regular employees who suffer a catastrophic injury or illness. A sick leave pool has been established and is maintained to provide for the alleviation of the hardship caused to an employee and the employee's family if a catastrophic illness or injury forces the employee to exhaust all accrued leave (including compensatory time, if applicable) and lose compensation with the state.

Definitions:

1. A catastrophic injury or catastrophic illness is defined as a severe condition or combination of conditions affecting the mental or physical health of the employee, or the employee's immediate family, that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by the employee and lose sick leave compensation from the state.
2. A severe condition or combination of conditions is one that:
 - a. will result in death or is a severely debilitating condition that will result in the individual not meeting the essential functions of their job if not treated promptly or at regularly scheduled intervals (e.g. chemotherapy treatments, radiation treatments, etc.);
 - b. has been designated as terminal; or
 - c. fully incapacitates the employee from working for a continuous period of thirty (30) calendar days or more.
3. Licensed practitioner means a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his/her license.
4. Immediate family is defined as those individuals related by kinship, adoption, or marriage, or foster children who are so certified by the Texas Health and Human Services Commission who are living in the same household. If not in the same

household, an immediate family member is strictly limited to the employee's spouse, child or parent who needs care and assistance as a direct result of a documented catastrophic medical condition. Employees may use sick leave pool hours to care for an immediate family member only under circumstances for which an employee would be eligible to use regular sick leave, if available.

5. Medical Incident means a single occurrence of a catastrophic illness/injury.

Eligibility and Other General Provisions:

1. All regular faculty and non-probationary staff members eligible to accrue and use sick leave in accordance with university sick leave policy 12.18 with a minimum of one year of service may apply to use sick leave from the sick leave pool. The service must immediately precede the sick leave pool request.
2. Employees may use sick leave pool for their own catastrophic illness or injury or for one in their immediate family, as defined above.
3. The use of sick leave pool hours is limited to 720 hours per medical incident.
4. An employee must exhaust all available leave before being eligible to receive sick leave from the sick leave pool.
5. An employee must have utilized their accrued leave in a responsible manner to be eligible to use sick leave pool unless the leave is specifically donated to the employee. Regular, consistent attendance and punctuality is expected of all university faculty and staff, as well as the proper use of leave time when an absence is necessary. Sick leave used as it is earned is not considered to be responsible use, unless there are extenuating circumstances.
6. An employee utilizing sick leave from the sick leave pool continues to accrue vacation and sick leave entitlement as if on regular sick leave, provided he or she returns to work following the leave.
7. An employee approved for sick leave pool due to a catastrophic illness or injury that is absent from work for a minimum of 30 calendar days and is able to return to work on a part-time basis may continue to utilize the remaining allocated sick leave pool hours on an intermittent basis if the continuing treatment requires the employee to exhaust their leave balance awarded upon their return to work. Employees will be required to provide medical documentation supporting the employee's fitness for duty on a part-time basis and a continuing need for medical treatments and subsequent absences. The treatments and absences must be directly related to the initial qualifying medical incident.
8. Employees who are not covered by FMLA (policy 12.9) and who are offered a bona fide job offer under the university's Return to Work (policy 11.24) must accept the offer or sick leave pool benefits will end.
9. Employees who file for Worker's Compensation Benefits are not eligible to use sick leave from the sick leave pool. In no case may sick leave pool time be used in

conjunction with a worker's compensation claim.

10. A routine pregnancy is not considered a catastrophic illness or injury.
11. A regular part-time employee is granted pool leave on a pro-rated basis.
12. One sick leave pool will be administered for all regular faculty and staff employees of the university.

Requesting Sick Leave from the Pool

1. A regular employee may apply for sick leave from the sick leave pool by completing a Request for Sick Leave from the Sick Leave Pool form and routing the form to the pool administrator in human resources.
2. Medical certification is required before the sick leave pool request can be reviewed by the administrator. Weekly documentation of appointments and/or treatment must be submitted to the pool administrator. Failure to return the required certification and documentation may result in loss of pool benefits.
3. The pool administrator verifies that the medical documentation supports the request for sick leave pool. The pool administrator maintains all medical documentation and adheres to standards of confidentiality, to the extent allowed by law. The pool administrator routes the request to the department director for a recommendation for approval, disapproval or an adjustment in the number of sick leave pool hours awarded based upon the employee's previous use of sick leave.
4. The pool administrator, upon receipt of the department director's recommendation approves all or part of the request, or denies the request. If necessary, the pool administrator may seek additional information from both the supervisor and the employee to clarify the employee's previous use of sick leave or to request additional medical documentation. All practitioner's statements and medical updates are subject to be referred to and reviewed by a university medical review board.
5. The amount of the pool leave granted for each catastrophic illness or injury will be determined by the pool administrator. The amount granted cannot exceed one-third of the balance of hours in the pool. However, in no case may an employee use more than 90 work days from the pool. Initiation and/or renewal of approval for use of such leave shall be subject to review of a current medical report for each approval period, and subject to availability of appropriate balance in the fund.
6. Medical updates are required every 30 days, unless otherwise indicated. Failure to return required medical documentation may result in delay or loss of pool benefits.
7. Any unused balance of leave granted to an employee from the sick leave pool returns to the pool if the employee returns to work prior to using all days granted unless medical documentation is submitted to support the need for reduced hours relating to the initial medical incident. All of an employee's monthly leave accruals (vacation/sick leave) must be utilized towards the medical incident prior to using sick leave pool balances. Medical incidents that require reduced hours on a continuous or permanent basis will be addressed through the SFA accommodations process.

8. The estate of a deceased employee is not at any time entitled to payment for unused leave requested from the sick leave pool.
9. An employee's sick leave pool award will immediately stop once the catastrophic medical condition for which it was granted ceases.

Contributing Sick Leave to the Pool

1. An employee with accrued sick leave may contribute to the sick leave pool in increments of eight hours, with the exception of a retiring employee who may contribute accrued sick leave in increments of less than eight hours.
2. Sick leave contributed to the pool reduces the accrued sick leave balance of the employee making the contribution.
3. Contributions to the pool are strictly voluntary.
4. An employee contributing sick leave to the sick leave pool may not stipulate who is to receive the contribution.
5. An employee who contributes sick leave to the sick leave pool cannot reclaim the contribution unless entitled to use leave from the sick leave pool. An employee who contributes sick leave to the sick leave pool and then exhausts his or her sick leave balance in the same fiscal year may receive the number of hours he or she contributed to the pool in that fiscal year without suffering a catastrophic illness or injury.
6. An employee desiring to contribute sick leave to the sick leave pool should complete an Application to Contribute Sick Leave form, provide a copy to his or her department head, and route the form to the pool administrator in human resources.

Administration of the Pool

1. The pool administrator in the Human Resources Department is responsible for the administration of the sick leave pool. Decisions of the pool administrator may be appealed to the appropriate vice president.
2. Requests for sick leave from the sick leave pool will be forwarded to the pool administrator. Requests will be considered by the pool administrator on a first-come, first-served basis. Employees may submit a request for sick leave pool hours when they are running out of accrued leave. The request will be considered when they have exhausted all accrued time.
3. The pool administrator will have five working days from the date a request is received in which to approve all or part of the request or deny the request.
4. The amount of sick leave granted for each catastrophic illness or injury will be determined by the pool administrator. The amount cannot exceed one-third of the balance of hours in the pool, or 90 working days, whichever is less. The pool administrator shall approve the use of not more than thirty (30) days of such leave by one individual at one time. Initiation and/or renewal of approval for use of such leave will be subject to review of a current medical report for each thirty (30) day approval, and is subject to availability of appropriate balance in the fund.
5. The pool administrator shall design and implement a system of records management and

reporting of sick leave pool activity. The total leave time available in the sick leave pool shall be reported annually to the director of human resources and be available upon request to faculty and staff.

Cross Reference: Tex. Gov't Code §§ 661.001-.038, .201-207; Tex. Gov't Code Ch. 617; Tex. Educ. Code § 51.961; Non- Academic Employee Handbook; Organized Work Stoppage (11.18); Family and Medical Leave (12.9); Leave of Absence (Faculty and Staff) (12.11).

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Human Resources

Forms: Request for Vacation, Compensatory Time, Sick Leave Taken (available from Human Resources)

Board Committee Assignment: Academic and Student Affairs

Longevity Pay and Hazardous Duty Pay

Original Implementation: Unpublished

Last Revision: April 25, 2017

Non-academic, full-time employees working at least 40 hours a week in one position, are entitled to longevity pay in the amount of \$20 per month for each 2 years of state service. When appointments are added together, an eligible employee may be paid longevity pay if the sum of the scheduled work hours in all non-academic appointments is 40 or more hours. Longevity pay is capped at \$420 per month. At the time of initial employment, employees are required to report prior employment with other state of Texas agencies or institutions of higher education. The new employee will be asked to provide prior state employment information to human resources during the new employee orientation. Prior state employment is verified by human resources.

SFA Charter School teachers are excluded from this policy. Commissioned law officers are entitled to hazardous duty pay in lieu of longevity pay. In most cases, the amount of a full-time employee's hazardous duty pay is \$10 per month for each 12-month period of lifetime service credit accrued by the employee.

Cross Reference: Tex. Gov't Code §§ 659.041-.047,.305; Texas Comptroller guidelines on longevity pay

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Human Resources

Forms: None

Board Committee Assignment: Academic and Student Affairs