

TO: **Dr. JuliAnn Mazachek**, President
FROM: **Laura Hetrick**, Title IX Director & Coordinator
DATE: September 8, 2022
RE: Title IX Coordinator Reporting Requirements under Tex. Educ. Code § 51.253(a)
Reporting Period of September 2021 to August 2022

Under the Texas Education Code (TEC), Section 51.253(a), the Title IX Coordinator is required to submit a written report no less than every three months to the Institution's Chief Executive Officer regarding reports received from employees who are required to report under the Texas Education Code¹ and the type of incident described in the employee's report that constitutes "sexual harassment," "sexual assault," "dating violence," or "stalking."²

This report includes the investigation status of these reports; the disposition, if any, of any disciplinary processes arising from these reports; and the reports for which the institution determined not to initiate a disciplinary process.³ It should be noted the reports received from Confidential Resources along with Employee's Failure to report are called out in Appendix A.

For the purposes of complying with the Title IX Coordinator reporting requirements under Section 51.253(a), the attached written report (Appendix A, Table 1) includes all the required reporting information for Midwestern State University, for the 2021-2022 academic year, as of **August 31, 2022**.

An attached summary data report (Appendix B) with the aggregate data, based on the Title IX Coordinator's written report (Appendix A), has also been included for your review. The summary data in Appendix B is categorized based on the reporting requirements under TEC, Section 51.253(c). The reports received may be applicable in multiple reporting categories, and therefore, the summary data in the categories may not add up to the totals of other categories.

Note: Any additional reports received by the Title IX Coordinator that do not meet the required reporting criteria in the Texas Education Code have been omitted for the compliance purposes of this specific report.⁴

¹ Texas Education Code, Section 51.252

² Texas Education Code, Section 51.251.

³ Texas Education Code,

⁴ For example, reports made by students and all other non-employees (including incidents under TEC, Section 51.252(d)) are excluded from Appendices A and B. Additionally, if the Title IX Coordinator determines that the type of incident described in a report, as alleged, does not constitute "sexual harassment," "sexual assault," "dating violence," or "stalking" as defined in the TEC, Section 51.251, the report is excluded from Appendices A and B. It is the responsibility of Title IX Coordinator to assess each report received and determine whether it is properly included in this report, and if so, to correctly identify the type of incident.

Terminology:

Alleged Conduct:

Dating Violence: Physical, sexual, or verbal abuse or violence, or threat of abuse or violence, committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the Complaining Party. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.

Domestic Violence: Physical, sexual, or verbal abuse or violence committed by a current or former spouse or intimate partner of the Complaining Party, by an individual with whom the Complaining Party shares a child in common, by an individual with whom the Complaining Party is cohabiting (or has cohabited) with a spouse or intimate partner, by an individual similarly situated to a spouse of the Complaining Party under the Domestic or Family Violence laws of the state of Texas, or by any other individual against an adult or youth victim who is protected from that individual's acts under the Domestic or Family Violence laws of the state of Texas.

Sexual Assault: Sexual contact or intercourse with an individual without the individual's consent, including sexual contact or intercourse against the individual's will or in a circumstance in which the individual is incapable of consenting to the contact or intercourse. Sexual assault includes:

- (1) *Non-Consensual Sexual Contact* – Intentional sexual touching, however slight, with any object or part of one's body of another's private areas without consent. Sexual Contact includes: (1) intentional contact with the breast, buttock, groin, or genitals; (2) touching another with any of these body parts; (3) making another touch you or themselves with or on any of these body parts; or (4) any other intentional bodily contact in a sexual manner.
- (2) *Non-Consensual Sexual Intercourse* – Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.

Sexual Harassment: Unwelcome sex-based verbal or physical conduct that:

- (1) In the employment context, unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. To constitute an intimidating, hostile, or offensive working environment, the complained of conduct must be either severe, persistent, or pervasive; or
- (2) In the education context, is sufficiently severe, persistent, or pervasive that the conduct unreasonably interferes with a student's ability to participate in or benefit from educational programs or activities.

Stalking: A course of conduct directed at a specific person that would cause a reasonable individual to fear for the individual's safety or the safety of others or would cause that individual to suffer substantial emotional distress. A "course of conduct" means two or more acts in which an individual 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 an individual's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not

necessarily, require medical or other professional treatment or counseling.

Investigation Status:

Report Review/Intake: The Complaining Party and investigating office are working in conjunction to determine next steps.

Insufficient Information to Investigate: The report lacks information to investigate formally.

No Indication of Policy Violation: The report does not rise to the level of a policy violation.

Complainant Requested Not to Investigate/Complainant Did Not File a Formal Complaint: The Complaining Party requested that the institution not investigate the report. Upon initial inquiry, the institution determined that there was not a risk to the University Community.

No Jurisdiction to Investigate: The institution lacks jurisdiction, i.e. an alleged student of another institution or a family member not affiliated with the institution, etc.

Formal Investigation Ongoing: Formal Investigation is taking place.

Formal Investigation Completed: Formal Investigation is complete and the resolution process (i.e. pre-hearing, hearing, voluntary or informal resolution is occurring).

Informal Resolution Pending: The report is being resolved utilizing the informal resolution process.

Outcome:

Informal Resolution: The report has been resolved utilizing the informal resolution process.

Responsible: The student has been found responsible for violating Texas Tech's Title IX and Sexual Misconduct policy.

Not Responsible: The student has been found not responsible for violating Texas Tech's Title IX Policy and Sexual Misconduct.

Policy Violation: The employee has violated Texas Tech's Title IX and Sexual Misconduct policy.

No Policy Violation: The employee did not violate Texas Tech's Title IX and Sexual Misconduct policy.

No 40.03 Violation: The employee did not violate Texas Tech's Sexual Harassment, Sexual Assault, Sexual Misconduct and Title IX Policy.

Other Policy Violation: The employee did not violate Texas Tech's Title IX and Sexual Misconduct policy.

**Appendix A
Title IX Coordinator Report
2021-2022 Academic Year**

**Appendix B
Summary Data Report
2021-2022 Academic Year**

Texas Education Code, Section 51.252	
Number of reports received under Section 51.252⁵	
a. Received from employees under 51.252	19
b. Received from Confidential Resources under 51.252(c)	0
Number of investigations conducted under Section 51.252	7
Disposition⁶ of any disciplinary processes for reports under Section 51.252:	
a. Disciplinary Process Pending	0
b. Concluding, No Finding or Policy Violation	4
c. Concluded, with Employee Disciplinary Sanction	1
d. Concluded, with Student Disciplinary Sanction	0
e. SUBTOTAL	5
Number of reports under Section 51.252 for which the institution determined not to initiate a disciplinary process⁷	0

Texas Education Code, Section 51.255	
Number of reports received that include allegations of an employee's failure to report or who submits a false report to the institution under Section 51.255(a)	0

⁵ For example, reports made by students and all other non-employees (including incidents under TEC, Section 51.252(d)) are excluded from Appendices A and B. Additionally, if the Title IX Coordinator determines that the type of incident described in a report, as alleged, does not constitute "sexual harassment," "sexual assault," "dating violence," or "stalking" as defined in the TEC, Section 51.251, the report is excluded from Appendices A and B. It is the responsibility of the Title IX Coordinator assess each report received and determine whether it is properly included in this report, and if so, to correctly identify the type of incident.

⁶ "Disposition" means "final result under the institution's disciplinary process" as defined in the Texas Higher Education Coordinating Board's (THECB) rules for TEC, Section 51.259 (See 19 Tex. Admin. Code Section 3.6(e) (2019)); therefore, pending disciplinary processes will not be listed until the final result is rendered.

⁷ The institution may have determined not to initiate a disciplinary process. The reasons for not initiating a discipline process can include, but is not limited to: the respondent was not affiliated with Texas Tech University; the complainant requested the institution not investigate the report; investigation is ongoing; or investigation was completed with a preponderance of evidence not met.

<p>Any disciplinary action taken, regarding failure to report or false reports to the institution under Section 51.255(c):</p> <ul style="list-style-type: none">a. Employee terminationb. Institutional intent to termination, in lieu of employee resignation	<p>None None</p>
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