POLICY, PROCEDURES, and INFORMATION on SEXUAL HARASSMENT, SEXUAL ASSAULT, SEXUAL EXPLOITATION, DATING VIOLENCE, DOMESTIC VIOLENCE, and STALKING
RISK REDUCTION TIPS

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act.

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake and drug use and acknowledge that alcohol and drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON’T MAKE ASSUMPTIONS about consent; about someone’s sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you should assume you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don’t take advantage of someone’s drunkenness or drugged state, even if they are responsible for their condition.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don’t abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity should not be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.
Introduction

Sexual misconduct and assault, including rape, are violations of Trinity University’s Standards of Conduct for Students and its sexual harassment policy as well as violations of the Texas Penal Code.

Members of the University community, guests and visitors have the right to be free from sexual violence. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. When accused students are found to have violated this policy, serious sanctions will be imposed. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated. The sexual orientation and gender identity of individuals engaging in sexual activity are not relevant to allegations under this policy.

While there are a number of laws and regulations that mandate how universities handle allegations of sexual misconduct and assault, it is impossible to set forth every scenario that could be a violation of this policy. Ultimately, the University has the discretion to determine whether or not the policy has been violated and impose appropriate sanctions for infractions.

See tips for risk reduction and a description of campus programs elsewhere in this document.

A Note About Preserving Evidence

Evidence of a sexual assault and the attacker’s identity may be left on the victim’s body. Therefore, it is recommended that a victim of sexual assault not wash in any way until after an examination at the Methodist Specialty and Transplant Hospital Emergency Room at 8026 Floyd Curl Drive, San Antonio, Texas (210-575-8168), which is the only hospital with staff trained and equipped to deal with sexual assaults (24/7). Victims of sexual assault should go in for the exam as quickly as possible because the evidence deteriorates quickly and may be important in supporting the assault allegation in criminal proceedings. The hospital staff at Methodist Specialty and Transplant Hospital is trained to collect forensic evidence, check for injuries and deal with the possibility of exposure to sexually transmitted diseases. A sexual assault nurse examiner (SANE) is a hospital staff member who handles sexual assault and is specifically trained to: provide comprehensive care to sexual assault survivors; demonstrate competence in conducting a forensic examination; have the ability to testify as an expert witness; and show compassion and sensitivity to survivors of sexual assault.

Anyone who may have ingested an unknown substance (such as a “date rape” drug) should immediately be screened as these substances may quickly leave the blood system.
Reporting

For Immediate Assistance
Go to a safe location, and if injured, seek immediate medical attention. If you are sexually assaulted, you may seek assistance by contacting any of the following:

- **University Police**: 210-999-7000
- **Counseling Services**: 210-999-7411
- **Dean of Students**: 210-999-8844
- **Health Services**: 210-999-8111
- **Residential Life**: 210-999-7219
- **Rape Crisis Center**: 210-349-7273

Note that Trinity University Police can contact on-call staff (Counseling, Residential Life, Dean of Students) when offices are closed.

If you are off campus and in an emergency situation, call the San Antonio Police Department (911). You may also report the assault directly to the San Antonio Police Department (for non-emergency calls: 210-207-7273, for off-campus emergencies: 911) or with the assistance of Trinity’s University Police staff.

When consulting campus resources, all parties should be aware of confidentiality, privacy, and mandatory reporting in order to make informed choices. Students have the right and can expect to have incidents of sexual misconduct to be taken seriously by the institution and to have those incidents investigated and properly resolved through administrative procedures. A report of sexual misconduct will be considered confidential, and only the people who need to know will be advised of the situation.

To Discuss Confidentially
If one desires that details of the incident be kept confidential, that person should speak with on-campus mental health counselors, campus health service providers, or the chaplain. Campus counselors are available to help free of charge, and can be seen on an emergency basis. In addition, victims may speak on- and off-campus with members of the clergy and chaplains, and off-campus rape crisis counselors who can maintain privacy.

To Discuss Safely With Others
Students can seek advice from certain people who are not required to tell anyone else private, personally identifiable information unless there is cause for fear for safety, or the safety of others. These are individuals who the University has not specifically designated as responsible employees for purposes of putting the institution on notice and for whom mandatory reporting is required, other than in the stated limited circumstances.

Some people (who can generally maintain student confidentiality and privacy) include those without supervisory responsibility or remedial authority to address sexual misconduct. They include Residential Life student staff members (resident mentors, resident assistants, and hall managers), faculty members, advisors to student organizations, career services staff, admissions officers, student activities-related personnel,
and many others. If unsure of someone’s duties and ability to maintain privacy, students are urged to ask to confirm that person’s status before engaging in discussion. They will be able to help make decisions about who can help best.

Most of these people, such as RAs, **must** share incident reports with their supervisors, but they will not share any personally identifiable information about the report unless the reporting student gives permission, except in the rare event that the incident reveals a need to protect the student or other members of the community. If personally identifiable information is shared, it will only be shared as necessary with as few people as possible, and all efforts will be made to protect student privacy.

**Non-Confidential Reporting**

Students are encouraged to make formal reports of incidents to officials of the institution (deans, vice presidents, or other administrators with supervisory responsibilities, TUPD, and Human Resources). The University considers these people to be “responsible employees.” Notice to them is official notice to the institution. Students have the right, and can expect, to have incidents of sexual misconduct taken seriously by the institution when formally reported, and to have those incidents investigated and properly resolved through administrative procedures. If a formal report is made, information will be shared only as necessary (e.g., with investigators, witnesses, and the accused individual).

**Remediation**

The University reserves sole discretion and the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect students’ rights and personal safety and the University community. Such measures include, but are not limited to, modification of living arrangements, reassignment of classes as available or removal from classes, interim suspension from campus pending a hearing, and reporting the matter to the law enforcement.

**Filing a Complaint**

Victims of sexual misconduct usually have two avenues to consider in filing a formal complaint. These options are not mutually exclusive. The first offers a University process and the second a criminal process. Either or both may be pursued:

1. A student who wishes to have a complaint reviewed administratively, within the institution, should contact the Dean of Students Office. The staff will explain Trinity University procedures.

2. A student who wishes to have a complaint handled criminally should contact the Trinity University Police Department or the San Antonio Police Department. A University staff member will accompany an accusing student through this process as requested. Contact the Dean of Students Office for a campus advocate.

The accusing party can decide to not pursue a formal complaint. When possible, the University will respect the wishes of the accusing party. The University’s ability to investigate the matter may be negatively impacted by the accusing party’s desire to keep the matter confidential. When necessary due to the circumstances, the University may initiate its own investigation of instances of sexual misconduct.
STUDENT RIGHTS

Reporting

- Accusing students have the right to notify law enforcement and to be assisted by campus authorities in doing so.
- Accusing students have the right to decline to report to law enforcement.
- Accusing students have the right to have their cases referred for administrative campus investigation and review.

Fair Process

- All students have the right for reported grievances to be reviewed through the procedures outlined in this policy.
- Accusing and accused students have the same opportunity to have advocates of their choice present at any stage in the campus investigative and adjudicative process.
- Both the accusing and the accused students shall be informed in writing of the outcome of any campus disciplinary hearing alleging sexual misconduct.
- Accusing and accused students and witnesses will receive amnesty for minor student misconduct violations (such as alcohol or drug infractions) that are secondary to the alleged incident.
- Accusing and accused students, witnesses, and their supporters have the unfettered right to be free from retaliation.

Advocacy and Support

- Students shall be notified of campus counseling services and off-campus resources.
- Students will be offered procedural assistance from a trained Trinity University support person.
- All parties in the investigative process are entitled to have a representative (up to ONE family member, friend, or support person, up to ONE legal representative, and/or a Trinity University process advocate) present during investigatory interviews and hearings.
- TUPD is available to assist students who wish to seek assistance for court-ordered no-contact orders. TUPD has no authority to compel the courts to issue such orders.

Temporary Measures

Accusing students will be notified of, and have the right to receive, no-contact administrative orders and adjustments to academic and housing arrangements, and other appropriate measures, whether or not there is a formal complaint.
Consent

Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity or contact.

- Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity.
- A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately. Continued pressure can be coercive, and is also a violation of this policy.
- Silence or the absence of resistance alone is not consent.
- Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).
- A current or previous dating relationship is not sufficient to constitute consent.
- In order to give effective consent, one must be 17 years old in Texas.

Force as a Factor in Consent

Force is the direct or indirect use of physical violence and/or imposing on someone physically to gain sexual access. There is no requirement that parties resist the sexual advance or request, but resistance is a clear demonstration of non-consent.

Incapacitation as a Factor in Consent

Students who are not sure if they are interacting with a person who has diminished capacity should, as a matter of practice, avoid engaging in a sexual act with that person at that time. A person who has ingested a “date rape” drug or is blacked out may not appear incapacitated; nonetheless, this person is incapable of knowing consent. Thus, a student who has sexual interactions with anyone who may be under the influence of any substance is vulnerable to accusations of violations of this policy.

A person is incapacitated and cannot consent if that person has no control of his or her motor skills; is unable to understand what is happening; is intoxicated to the point of a potential black out; or is asleep, or unconscious for any reason, including voluntary or involuntary use of alcohol or drugs. Drunkenness is different than incapacitation, and does not, in itself, automatically indicate a violation, unless other factors, such as force, coercion, or lack of consent are involved.

An individual who engages in sexual activity when the individual knows, or should know, that the other person is incapacitated, has violated the policy.

Possession, use and/or distribution and/or administering of any incapacitating drugs, is prohibited and is a violation of this policy.

It is not an excuse that the accused party of sexual misconduct was drunk/intoxicated, and therefore, did not realize the incapacity of the other.
Sexual Harassment
Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature including when:
- submission to such conduct is made either explicitly or implicitly a term or condition of instruction, employment, or participation in other University activities;
- submission to or rejection of such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions affecting the individual; or
- such conduct has the purpose or effect of interfering with an individual’s work performance or creating an intimidating, hostile, or offensive University environment.

Non-consensual Sexual Contact
Non-consensual sexual contact is defined as:
- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force
Sexual touching includes, but is not limited to, any bodily contact with breasts, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

Non-consensual Sexual Intercourse
Non-consensual sexual intercourse is defined as:
- any sexual penetration or intercourse (anal, oral, or vaginal)
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force
Sexual intercourse includes, but is not limited to, vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

Sexual Exploitation
Sexual exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-consensual Sexual Contact, and Non-consensual Sexual Intercourse.

Examples of sexual exploitation include, but are not limited to, engaging in the following activities without the other person(s) consent:
- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed).
- Taking pictures or recording another in a sexual act, or in any other private activity (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent).
- Exposing one’s genitals or breasts in non-consensual circumstances or inducing another to expose his or her genitals or breasts.
- Prostitution.
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection.
- Administering alcohol or drugs (such as “date rape” drugs) to another person.
- Intentionally aiding a violation of the sexual misconduct policy.

**Dating Violence**

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on consideration of the following factors: the length of the relationship; the type of the relationship, and the frequency of interaction between the persons involved in the relationship. This includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

**Domestic Violence**

Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Texas; by any other person who is protected from that person’s acts under the domestic or family violence laws of Texas.

**Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her own safety; or the safety of others; or suffer substantial emotional duress.

**Retaliation**

Accusing students, accused students, witnesses, and their supporters have the unfettered right to be free from retaliation. Retaliation is defined as any adverse reaction taken against a person for alleging harassment, supporting a party bringing a grievance, or for assisting in providing information relevant to a claim of harassment. Retaliation will be investigated immediately and adjudicated separately. Retaliation includes, but is not limited to intimidation, threats or menacing behavior, coercion, or discriminatory actions. Retaliation is a serious violation and may result in immediate removal from the University.
Initial Review
The Dean of Students or a designee will meet with the person who brings forth the information and explain Trinity University conduct procedures, including: the difference between the administrative procedure and criminal reporting; no-contact orders and remedial action; and confidentiality and privacy.

Generally, the next step will be for the Dean of Students or designee to meet with the accused student (at a different time) to notify him or her of the allegations and possible remedial actions.

Reports made to the Dean of Students will be shared confidentially with the Campus Title IX Coordinator and with the Trinity University Police Department per federal reporting requirements (Clery Act).

The University has an obligation to investigate allegations of sexual misconduct as provided for in this policy.

Investigative Roles
Facilitator: The Dean of Students or a designee will receive the initial complaint, explain policies and procedures, and respond to student, parental, and legal inquiries as well as serve as the non-voting hearing facilitator.

A pool of faculty and staff members will alternately serve in the following roles.*

Process Advocates: Each student in a case will be assigned a trained faculty or staff process advocate to assist in navigating the process and answering questions on policy and procedure.

Investigators: A faculty and/or staff male/female pair will be assigned to investigate complaints.

Hearing Panelists: Two faculty/staff members will serve on the Hearing Panel. Please note that a third panelist will be a student from the Student Conduct Board as assigned by the Dean of Students or his/her designee.

* In cases where a conflict of interest may arise, alternates are available.

Investigation
In cases involving student grievances referred for administrative action, the University will use an investigative model. This model allows much of the investigation to be completed prior to the final hearing. Trained faculty and staff investigators will interview accusing and accused students and witnesses, review documents, and perform other acts necessary to complete the investigation. This includes sharing the statements with the accusing and accused students and allowing for one or more responses from each.

Investigators will prepare a summary report with findings and sanctioning recommendations for the Hearing Panel. Accusing and accused students will have an opportunity to preview the report and offer comment.

The University will strive to complete an investigation under this policy within 60 days of receiving a formal complaint.

In some instances, in which investigators determine there is insufficient evidence, cases may not be referred to hearings. Examples include, but are not limited to: cases in which investigators determine there is insufficient evidence; or an accusing student withdraws a complaint or withdraws cooperation. Trinity University reserves the right to continue investigations in the best interest of the health and safety of the greater University community.

Hearing Procedure
In the hearing, the Hearing Panel will generally question the investigators and accept or reject the recommendations. If they reject the recommendations or adjust the sanctions, they must do so within the framework of the policy and cite clear evidence in order to make adjustments.
The Hearing Panel may return the report to the investigators for modification. Accusing and accused students may make opening and closing statements primarily to address issues raised in the report. If a finding of “responsible” is assigned, the Hearing Panel may review a written impact statement, which may also include desired sanction outcomes. Such a statement will be shared with the responsible student, should that student submit an appeal.

**Standard of Evidence**
Trinity University considers the greater weight of the credible evidence as its standard in student conduct cases. Often referred to as the “preponderance of the evidence,” this standard asks decision-makers to consider whether it is more likely than not that a violation occurred.

**Past History**
The past sexual history or sexual character of a party will not be considered in hearings unless such information is determined to be highly relevant by the Hearing Panel Chair. All such information sought to be admitted by a party or the University will be presumed irrelevant until a determination of relevance is made, in advance of the hearing, by the Hearing Panel Chair, and in consultation with the Hearing Panel. Demonstration of a pattern, repeated, and/or predatory behavior by the accused student, including previous findings in any legal or campus proceeding, may be relevant to the finding, not just the sanction. The parties will be notified in advance if any such information is deemed relevant and will be introduced in the hearing.

**Sanction Statement**
Not all forms of sexual misconduct are equally serious offenses, and the University reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense and taking into account any previous campus conduct code violations. The University will consider the concerns and rights of both the accusing party and the person accused of sexual misconduct.

- Any student found responsible for violating the policy on Non-consensual or Forced Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion.
- Any student found responsible for violating the policy on Non-consensual or Forced Sexual Intercourse will likely receive a sanction of suspension or expulsion.
- Any student found responsible for violating the policy on Sexual Exploitation or Sexual Harassment (and related violations) will likely receive a sanction ranging from warning to expulsion.
- Any student found responsible for violating policies on Dating Violence, Domestic Violence, or stalking will likely receive a sanction of suspension or expulsion.

**Final Outcome**
Accusing and accused students may see the decision letters, receive survivor impact statements (if included), and view and respond to written appeals.

**Appeals**
All parties in a sexual misconduct hearing have the opportunity to appeal within five days. Students found responsible may appeal without concern that the review body will issue a harsher finding or sanction. Reporting parties may appeal the decision and the sanction. Student Conduct procedures for appeal will be followed and are part of the general Student Conduct procedures.
PROGRAMS

Bystander Action
Trinity University provides a Bystander Action program to all new students to enhance sexual assault awareness and prevention. The Bystander Action program instructs participants on safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking.

Coalition for Respect
A committee of staff, faculty, and student members meets every semester to review the campus climate with respect to sexual misconduct. This group focuses specifically on compliance, policy, prevention and education, and advocacy. In the future the committee will consider ways to survey the campus population.

Violence Against Women Act Training
Incoming students will participate in an online web-based course that is in compliance with the Violence Against Women Act and informative about the law.

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