

UNIVERSITY OF DALLAS

OFFICE OF CIVIL RIGHTS AND TITLE IX

Braniff 132 • 1845 E. Northgate Drive • Irving, Texas 75062 • udallas.edu/civil-rights
Phone: 972-721-5056 • Fax: 972-265-5712 • Email: jaskinner@udallas.edu

THE UNIVERSITY COMMUNITY

The University of Dallas is a Catholic university, with a vocation “dedicated to research, to teaching and to the education of students who freely associate with their teachers in a common love of knowledge” (St. John Paul II, *Ex corde ecclesiae*, 1). In fulfillment of that vocation, the university must be an authentic human community, with a unity that “springs from a common dedication to the truth, a common vision of the dignity of the human person and, ultimately, the person and message of Christ” (21).

The motto of the University of Dallas is *Veritatem, justitiam diligite*, because we seek to foster a community in pursuit of truth and justice. To that end, this community “is animated by a spirit of freedom and charity” and “is characterized by mutual respect, sincere dialogue and protection of the rights of individuals” (ibid.).

Aristotle reminds us in the *Politics* that we are, by nature, social animals, and therefore it is only in community that we can fully strive toward human flourishing. Our need for community also reminds us of our obligation to protect it. The pursuit of truth and justice is not for the select few. It is the honor, and the responsibility, of the entire community. As St. John Paul II explains, that primary responsibility for protecting human rights belongs to individuals and the smaller groups and communities they form within society (*Centesimus annus*, 48).

The University of Dallas, and the individual members of this community, are one such group, with an obligation to respect the dignity of others, and to seek to protect them from injustice. As a member of this community, you have the opportunity to help.

DISCRIMINATION AND HARASSMENT

All men and women are “created in the image of the one God and equally endowed with rational souls,” having “the same nature and the same origin” (CCC 1934). The equality of men and women “rests

essentially on their dignity, as persons and the rights that flow from it” (1935). Unfortunately, while we were “created for freedom,” we also bear “the wound of original sin, which constantly draws man toward evil” (*Centesimus annus*, 25).

The unavoidable presence of evil in the world, however, is not a justification for inaction. As Pope Leo XIII explains, “no man may with impunity outrage that human dignity which God Himself treats with great reverence” (*Rerum novarum*, 40).

That is why the Second Vatican Council reminds the world that, “with respect to the fundamental rights of the person, every type of discrimination, whether social or cultural, whether based on sex, race, color, social condition, language or religion, is to be overcome and eradicated as contrary to God’s intent” (*Gaudium et spes*, 29).

In response to the horror of racist ideology, Pope Pius XI reminds the Church that “God’s sun shines on every human” (*Mit Brennender Sorge*, 10), and within the Church “there is but one country for all nations and tongues” (18). Society, including the specific society that is the University of Dallas, has an obligation to protect the natural rights of every man and woman precisely because society “was intended by the Creator for the full development of individual possibilities” (30).

SEXUAL VIOLENCE

There are few acts more obviously contrary to our ability to live in community and strive for fulfillment than the threat or experience of violence. Among acts of violence, sexual violence is particularly devastating in that it is a “violation of the sexual intimacy of another person” (CCC 2356).

Sexuality is an important component of “the aptitude for forming bonds of communion with others” (2332), and serves as a part of the living out of love, which is “the fundamental and innate vocation of every human being” (*Familiaris consortio*, 11). In its proper place, the sexual act serves as an expression of the most intimate union of love between persons (CCC 2362).

Sexual violence, on the other hand, undermines the possibility of communion

by treatment of another as a thing to be used, rather than a person to be loved. That is why it is a violation of both justice and charity (2356). It “deeply wounds the respect, freedom, and physical and moral integrity to which every person has a right,” causing grave damage to its victims (ibid.). No one deserves to be a victim of such misconduct. No one deserves to suffer a nonconsensual sexual act.

Similarly, those in a dating or domestic relationship serve as a symbol of the family, the original cell of social life (2207). The family contains “the foundations of freedom, security and fraternity within society” (ibid.). Violence from those on whom one should most fully be able to rely undermines the trust that is a necessary component of all society.

The University of Dallas strongly condemns such acts for the intrinsic evil that they are, and is committed to helping those who have been harmed.

OUR COMMITMENT

As part of its living out of the Catholic faith, the University of Dallas is committed to providing work, living and learning environments that are free of discrimination, harassment and retaliation. The university does not tolerate conduct that is inconsistent with this commitment. Its Civil Rights Policy (Policy CRP) represents the position of the University of Dallas, and is also in fulfillment of its duties under federal and state law, including, but not limited to, Title VI, Title VII, Title IX, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and their accompanying administrative regulations.

“Truth calls for the elimination of every trace of racial discrimination.”

– St. John XXIII, *Pacem in terris*, 86

Anyone who has experienced or become aware of discrimination, harassment or some other form of prohibited conduct is strongly encouraged to report it to the Office of Civil Rights and Title IX, which is responsible for overseeing compliance with the Civil Rights Policy, including coordinating supportive measures to those who may be victims of prohibited conduct, and investigating such allegations when a formal complaint has been filed.

When a violation of the University Civil Rights Policy is reported, the university will consider supportive measures to protect involved persons and/or the community. An alleged victim is not required to file a formal complaint to receive supportive measures.

Supportive measures may include changes in academic, living or transportation arrangements or working conditions or other protective measures. The university will make such accommodations or provide such protective measures if requested and if they are reasonably available, regardless of whether the victim chooses to report the alleged violations to University Police or local law enforcement.

Confidential resources refer to people whom the university has designated as available to speak with and provide assistance to individuals who have experienced, have information about or may have committed prohibited conduct, without obligation to provide personally identifiable information to the Office of Civil Rights and Title IX.

Complainant refers to the individual who is alleged to have been subject to prohibited conduct.

Formal complaint is a document filed by a complainant, or signed by the director of the Office of Civil Rights and Title IX, alleging prohibited conduct by a respondent and requesting that the university investigate the allegations of prohibited conduct.

Prohibited conduct refers to any form of discrimination, harassment, retaliation or failure to accommodate prohibited by the University Civil Rights Policy, including against any employee, applicant for employment, student or applicant for admission on the basis of race, ethnicity, national origin, sex, pregnancy, disability, veteran status, age or religion, or any other protected category under applicable federal, state or local law, except as otherwise permitted by law.

Harassment means a form of discrimination based on a person's membership or perceived membership in a protected category and includes physical, verbal or nonverbal conduct that is sufficiently severe or pervasive, and objectively offensive, such that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational, employment, social or residential programs.

Retaliation refers to any adverse action taken against a person participating in a protected activity because of that person's participation in that protected

activity, including participation by the accused. This includes, but is not limited to, any adverse employment or educational action taken for making reports of a violation of or otherwise participating under the University Civil Rights Policy, with the Equal Employment Opportunity Commission, the Office of Civil Rights or any other human rights agency.

Sexual harassment means a form of sex discrimination that includes unwelcome sex-based verbal, written or physical conduct that:

- In the employment context, unreasonably interferes with the victim's work performance or creates an intimidating, hostile or offensive work environment.
- In the education context, is sufficiently severe, pervasive or persistent that the conduct interferes with a student's ability to participate in, or benefit from, educational programs or activities of the university.

Examples of this type of activity may include, but are not limited to:

- Pressuring another to engage in sexual behavior for some educational or employment benefit (quid pro quo sexual harassment).
- Persistent unwelcome efforts to develop a romantic or sexual relationship.
- Unwelcome commentary about an individual's body or sexual activity.
- Unwanted sexual attention.
- Repeatedly engaging in sexually oriented conversations, comments or horseplay, including the use of language or the telling of jokes or anecdotes of a sexual nature in the workplace, office or classroom, even if such conduct is not objected to by those present.
- Gratuitous use of sexually oriented materials not directly related to the subject matter of a class, course or meeting, even if not objected to by those present.

The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. A single or isolated instance of sexual harassment may create a hostile environment if the incident is sufficiently severe.

Sexual assault means sexual contact that occurs without another's consent, including in situations where a person is incapable of giving consent. Sexual assault encompasses rape, fondling, incest and statutory rape.

Rape means 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 other person, including instances where the other person is incapable of giving consent.

Fondling means the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the other person, including instances where the other person is incapable of giving valid consent.

Incest means sexual intercourse between persons who are related to each other within the degrees prohibited by state law.

Statutory rape means nonforcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in Texas is 17.

Rape under Texas law occurs when a person intentionally or knowingly: **(A)** causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; **(B)** causes the penetration of the mouth of another person by the sexual organ of the actor, without the person's consent; or **(C)** causes 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. Tex. Penal Code §22.011(a)(1).

Fondling under Texas law occurs when a person intentionally or knowingly causes physical contact with another person when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. Tex. Penal Code §22.01(a)(3).

Incest under Texas law occurs when a person engages in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy, **(1)** the actor's ancestor or descendant by blood or adoption; **(2)** the actor's current or former stepchild or stepparent; **(3)** the actor's parent's brother or sister of the whole or half blood; **(4)** the actor's brother or sister of the whole or half blood or by adoption; **(5)** the children of the actor's brother or sister of the whole or half blood or by adoption; or **(6)** the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption. Tex. Penal Code §25.02(a).

Statutory rape under Texas law occurs when, regardless of whether the person knows the age of the child at the time of the offense, the person intentionally and knowingly **(A)** causes the penetration of the anus or sexual organ of a child by any

means; **(B)** causes the penetration of the mouth of a child by the sexual organ of the actor; **(C)** causes the sexual organ of the child to contact or penetrate the mouth, anus or sexual organ of another person, including the actor; **(D)** causes the anus of a child to contact the mouth, anus or sexual organ of another person, including the actor; or **(E)** causes the mouth of a child to contact the anus or sexual organ of another person, including the actor. Tex. Penal Code §22.01(a)(2).

Consent is knowing, voluntary and clear permission by word or action to engage in mutually agreed upon sexual activity. It is the responsibility of each party to make certain that the other has consented before engaging in the activity.

- A person who is incapacitated cannot give valid consent.
- For consent to be valid, there must be a clear expression in words or actions that the other individual consented to the specific sexual conduct.
- Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).
- Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.
- A current or previous dating relationship is not sufficient to constitute consent.
- The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.
- Silence or the absence of resistance is not consent.
- Resistance is a clear demonstration of a lack of consent. The absence of resistance does not demonstrate the presence of consent. Sexual activity that is forced is by definition nonconsensual, but nonconsensual sexual activity is not by definition forced.

Consent under Texas law means assent in fact, whether express or apparent. Tex. Penal Code §1.07(a)(11). For purposes of sexual assault claims, an act is without the consent of the other person if: **(1)** the actor compels the other person to submit or participate by the use of physical force, violence or coercion; **(2)** the actor compels the other person to submit or participate by threatening to use force or violence against the other person or to cause harm to 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 person's knowledge; **(7)** the actor compels the other person to submit or participate by threatening the use of force or violence against any person, and the other person believes that the actor has the ability to execute the threat; **(8)** the actor is a public servant who coerces the other person to submit or participate; **(9)** the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor; **(10)** the actor is a clergyman who causes the other person, who is a parishioner or former parishioner of the actor, to submit or participate by exploiting the other person's emotional dependency on the clergyman's professional character as spiritual adviser; or **(11)** the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other. Tex. Penal Code §22.011(b)

Coercion means unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear that they do not want sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Force refers to the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation ("implied threats") and coercion that overcome resistance or produce consent ("Have sex with me or I'll hit you." "OK, don't hit me, I'll do what you want.").

Incapacitated means a state of being in which a person cannot provide consent because the person is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to ingesting alcohol

or other drugs (e.g., unable to understand the "who, what, when, where, why or how" of the sexual interaction).

- A person's incapacity may be inferred based on surrounding factors, including but not limited to hallucinations, blackouts, seizures, vomiting, slurred speech, disorientation or lack of physical or mental coordination.
- Prohibited conduct is not excused because the accused was intoxicated and, therefore, did not realize the incapacity of the complainant. The standard that shall be applied is whether or not a reasonable person would have known based on the facts and circumstances presented that the other party was incapacitated and, therefore, not capable of consenting.
- A person may also be incapacitated due to mental disability or involuntary physical restraint.

Dating violence refers to violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such relationship shall be determined based on the perception of the alleged victim; however, consideration shall also be given to: **(1)** the length of the relationship, **(2)** the type of relationship, and **(3)** the frequency and nature 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.

Dating violence under Texas law "means an act, other than a defensive measure to protect oneself, by an actor that: **(1)** is committed against a victim or against an applicant for a protective order: **(A)** with whom the actor has or has had a dating relationship; or **(B)** because of the victim's or applicant'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 harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the victim or applicant in fear of imminent physical harm, bodily injury, assault or sexual assault." Tex. Family Code §71.0021(a).

Domestic violence refers to the following types of violence:

- By a current or former spouse or intimate partner 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.

- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- By any other person against an adult or youth victim who is protected from the person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Family violence under Texas law means:

(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 in [the Family Code], by a member of a family or household toward a child of the family or household; or (3) dating violence." Tex. Family Code §71.004.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for their safety and/or the safety of others; or (2) suffer substantial emotional distress.

For the purposes of defining stalking:

- A "course of conduct" means two or more 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.
- "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- A "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

The definition of stalking also extends to cyberstalking.

Stalking under Texas law occurs when a person, 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: (1) constitutes an offense of criminal harassment, or that the actor knows or reasonably should know the other person will regard as threatening: (A) bodily injury or death of the other person; (B) bodily injury or death of a member of the other person's family or

household or an individual with whom the other person has a dating relationship; or (C) that an offense will be committed against the other person's property; (2) 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 (3) would cause a reasonable person to: (A) fear bodily injury or death for himself or herself; (B) 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; (C) fear that an offense will be committed against the person's property; or (D) feel harassed, annoyed, alarmed, abused, tormented, embarrassed or offended. Tex. Penal Code §42.072(a).

Sexual exploitation refers to conduct in which an individual takes nonconsensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of sexual harassment or sexual assault. Examples of sexual exploitation include, but are not limited to:

- 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 video or audio recordings of another in a sexual act, or in any other private activity, without the consent of all involved in the activity, or exceeding the boundaries of such consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Prostitution.
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or sexually transmitted infection (STI) without informing the other person of the infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent (assuming the act, for instance, rape, is not completed).
- Exposing one's genitals in nonconsensual circumstances (including in an electronic format).

"Every threat to human dignity and life must necessarily be felt in the Church's very heart."

– St. John Paul II, *Evangelium vitae*, 3

EMERGENCY HELP

UD Police Department

972-265-5911

Local Police Department

9-1-1

Dallas Area Rape Crisis Center

24-Hour Hotline: 972-641-7273

Parkland Hospital

5201 Harry Hines Blvd.
Dallas, Texas 75235
214-590-8000

ON-CAMPUS REPORTING

Office of Civil Rights and Title IX

Joshua Skinner, J.D., Title IX Coordinator
Braniff Graduate Building, Room 132
jaskinner@udallas.edu • 972-721-5056
udallas.edu/civil-rights • udallas.edu/titleix

Deputy Title IX Coordinators

LaCoya Williams, M.S.
lwilliams2@udallas.edu • 972-721-4063
Monica Heckman, M.E.S.
mheckman@udallas.edu • 972-721-5010

Online and Anonymous Reporting

For online, including anonymous, reporting: udallas.edu/complaint or call the university's Compliance Reporting Hotline at 888-317-8072.

CONFIDENTIAL RESOURCES

UD Counseling Center

Haggar University Center, Second Floor
counseling@udallas.edu • 972-721-4045

UD Student Health Clinic

Haggar University Center, Second Floor
972-721-5322

Fr. Thomas More Barba, O.P., Chaplain

SB Hall, Second Floor
tbarba@udallas.edu • 972-721-5375