

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**WAYNE M. KLOCKE, INDEPENDENT §
ADMINISTRATOR OF THE §
ESTATE OF THOMAS KLOCKE, §**

Plaintiff, §

v. §

Civil Action No. _____

**THE UNIVERSITY OF TEXAS AT §
ARLINGTON and NICHOLAS §
MATTHEW WATSON, §**

Defendants. §

ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Wayne M. Klocke, Independent Administrator of the Estate of Thomas Klocke, files this Complaint against Defendants The University of Texas at Arlington and Nicholas Matthew Watson, and respectfully shows the following:

NATURE OF THIS ACTION

1. This action addresses Defendant The University of Texas at Arlington’s (“UTA”) actionable misconduct in responding to allegations of misconduct by one of its students -- Defendant Nicholas Watson’s (“Watson”) – against another UTA student-- Thomas Klocke (“Thomas”). It also addresses Watson’s false and defamatory publication of his allegations regarding Thomas.

2. Prior to filing this complaint, Plaintiff conducted court-authorized pre-suit depositions of two UTA employee administrators—Heather Snow (“Snow”) and Daniel Moore

(“Moore”). Plaintiff also received pertinent documents from UTA. The allegations made in this complaint are based in part, on the sworn testimony and contents of the documents Plaintiff received.

3. On or about May 19, 2016 during a class at UTA, Watson (a gay male student) made unwelcome sexual advances or overtures toward Thomas (a heterosexual male student). When Thomas immediately rejected those advances and overtures, dialogue ensued between the two students. Disappointed by the rejection, or perhaps fearing that Thomas might complain to UTA about Watson’s behavior, because it constituted sexual harassment against Thomas (under UTA’s published policies and procedures), Watson reached out to Snow -- UTA’s Associate Vice President of Student Affairs and Dean of Students. As an advisor and advocate for Watson, Snow helped him draft a written complaint against Thomas, advised him to send it to her alone, then proceeded to grossly abuse her position to ensure that Thomas was severely disciplined¹.

4. Snow intentionally disregarded and circumvented the requirements of Title IX (including UTA’s published policies, procedures, and directives for investigating and resolving allegations of misconduct that fall within its Title IX investigation and disciplinary policy and procedure). She selectively implemented and enforced an alternative grievance resolution process that was deliberately indifferent to UTA’s Title IX obligations and Thomas’ rights thereunder. As a result of her actions, Thomas was denied the impartial investigation and fair and impartial hearing that he was entitled to under both UTA’s Title IX investigation and disciplinary procedures, and by Title IX itself.

¹ It should be noted that at all relevant times, UTA considered the allegations at issue to involve complaints of sexual harassment or sexual violence, as the terms are described in UTA’s policies and procedures, and used and understood under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1391, and the regulations promulgated thereunder (“Title IX”), although UTA never treated them as such, and circumvented those procedures.

5. Snow summarily decided that Thomas committed a violation of UTA's student code of conduct based solely on Watson's bare, unsupported, reported allegations. She assigned Moore with the task of making sure Thomas was punished and sanctioned for the same -- swiftly and harshly. Snow and Moore never deviated from their pre-casted conclusion that Thomas committed a disciplinary offense for which he would be punished and sanctioned, even after discovering that there literally was no evidence to corroborate Watson's allegations against Thomas. And Snow and Moore eventually retaliated against Thomas for refusing to admit guilt, and for complaining that Watson was the one who had violated UTA's student code of conduct.

6. The result of UTA's pretextual investigation of the incident reported by Watson (which defamed Thomas), and its selective enforcement of its grievance procedures, both of which occurred on a discriminatory basis, was an erroneous outcome, *i.e.*, a decision that Thomas committed a student code of conduct violation that he did not commit.

7. Thomas also suffered the denial by UTA of the benefits and privileges of an educational opportunity, program and activity that he was eligible and entitled to receive. The actionable misconduct of UTA and Watson further foreseeably injured Thomas, causing him immense embarrassment, the destruction of his reputation and severe mental anguish and pain, all of which causally led to Thomas' self-inflicted death on June 2, 2016.

PARTIES

8. Plaintiff is the duly appointed independent administrator of the Estate of Thomas Klocke. At the time of the events made the basis of this suit, Thomas was a resident of Tarrant County, Texas, and a student at UTA.

9. Defendant The University of Texas at Arlington is an agency of the State of Texas and a federally funded institution of higher education. UTA may be served with summons and

complaint by serving its President, Vistasp M. Karbhari, at 701 South Nedderman Drive Arlington, Texas 76019.

10. Defendant Nicholas Matthew Watson is an individual who committed the torts complained of herein in Tarrant County, Texas. He may be served with summons and this Complaint at 801 Sylvan Drive, Fort Worth, Texas 76120.

JURISDICTION AND VENUE

11. The Court has federal question jurisdiction and supplemental jurisdiction, respectively, pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1367 because: (i) Plaintiff states a claim under the laws of the United States, including Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-88; and (ii) the state law claims asserted herein are so closely related to the federal law claims as to form the same case or controversy under Article III of the U.S. Constitution.

12. The Court has personal jurisdiction over Defendants on the grounds that Defendants conduct business, and/or committed the wrongful acts complained of herein, in Tarrant County, Texas.

13. Venue properly lies in this Court pursuant to 28 U.S.C. §1391 because Defendants are considered to reside in this judicial district and/or a substantial part of the events or omissions giving rise to the claims occurred in this district.

FACTUAL ALLEGATIONS

A. Thomas was an enrolled male student at UTA with full eligibility to participate in UTA's educational programming, activities and opportunities.

14. At all times relevant, Thomas was a male student who was enrolled in a course at

UTA that constitutes an educational opportunity, program or activity.² He was fully eligible to receive and enjoy all of the benefits and privileges of such enrollment, and of that educational opportunity, program or activity.

15. In their pre-suit depositions, Snow and Moore testified that they did not know Thomas or know of him, prior to May 19, 2016. They also confirmed that they knew of no prior history or reports of misconduct by Thomas of any kind, at UTA or otherwise.

16. Thomas had a solid academic record and was planning to attend graduate school, following his graduation from UTA in the summer of 2016. He needed to successfully complete the Course during the May 2016 time frame, to graduate.

B. UTA is a federally funded university that is required to comply with the requirements of Title IX.

17. UTA is and at all times relevant, has been a federally funded university.

18. UTA has and publishes rules and regulations governing student conduct that describe impermissible behavior that may be subject to discipline. It also has and publishes disciplinary procedures that are to be employed and followed when a student is accused of conduct that may be a violation of its rules governing student conduct.

19. UTA's published policies and procedures prohibit sexual harassment and sexual violence, as well as general harassment.³ The purpose of UTA's Policy 9 is to prescribe standards of conduct expected of enrolled students, specify disciplinary penalties which can be imposed when conduct does not conform to prescribed standards, and establish due process procedures for the imposition of such penalties. *See*, Policy 9, II.A.2, "Purpose and Scope."

² Thomas and Watson were enrolled in an organizational strategy course – MANA 4322-01 (the "Course").

³ *See*, UTA Handbook, Policy 9 – "Student Conduct and Discipline, Subchapter 9-200 II, B(1)(v.) and (w.), a true copy of which is attached as Exhibit "A" to this Complaint.

UTA's duties and obligation in investigating a violation of its conduct rules, like its procedures for conducting disciplinary proceedings, vary depending on the nature of the alleged misconduct.

20. UTA also publishes directives specifically telling students what to do if they think they have been sexually harassed or victimized. See, <http://www.uta.edu/titleIX>. UTA specifically directs such students to contact UTA's "Title IX Coordinator" at a specific telephone number, or by email, or to submit a complaint form to the "Title IX Coordinator" at a designated fax number. In May of 2016, UTA clearly identified Jean Hood as its "Title IX Coordinator," in various locations on the UTA website, and in other easily accessible publications.⁴ According to additional published information disseminated and published by UTA to its students, the Title IX Coordinator is the sole university official responsible for ensuring that UTA complies with Title IX, including responding to and investigating complaints of gender discrimination (which includes sexual harassment and sexual violence) at UTA. And, UTA's published directives to students inform them that access to "Title IX Deputy Coordinators" occurs only via the filing of a report to or with the "Title IX Coordinator" who coordinates their involvement in any ensuing investigation.

1. The "Dear Colleague" letter of 2011.

21. In April of 2011, the Assistant Secretary of the United States Department of Education Office for Civil Rights sent a comprehensive "Dear Colleague" letter to all federally funded universities to provide guidance on Title IX's requirements related to student-on-student sexual harassment, including sexual violence⁵. It "explains schools' responsibilities to take

⁴ UTA also directs students who believe they are victims of sexual violence to contact the "UT Arlington P.D."

⁵ The "Dear Colleague" letter may be located at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>.

immediate and effective steps to end sexual harassment and violence,” including gender based harassment, which includes acts of verbal, non-verbal, or physical aggression, intimidation or hostility based on sex or sex stereotyping, even if those acts do not involve conduct of a sexual nature, in addition to unwelcome sexual advances and conduct of a sexual nature.

22. In the “Dear Colleague” letter, recipients of federal financial assistance (like UTA) were admonished that they *must* comply with the procedural requirements outlined in the Title IX implementing regulations, including “designat[ing] at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX,” and “adopt[ing] and publish[ing] grievance procedures providing for prompt and equitable resolution of student . . . sex discrimination complaints.”⁶

23. The “Dear Colleague” letter also explains that Title IX regulations require institutions like UTA to notify all students of the name and contact information of its Title IX Coordinator, whose “responsibilities include overseeing all Title IX complaints, and designate who is responsible for handling student complaints, noting that such person should be free of conflicts of interest such as serving as a disciplinary hearing board member.” The letter emphasizes that Title IX coordinators must have adequate training on what constitutes sexual harassment, including sexual violence, so as to understand and ensure compliance with the school’s Title IX grievance procedures.

24. One of the emphasized features of a compliant Title IX grievance procedure, according to the “Dear Colleague” letter, is that schools must use a preponderance of the evidence standard to evaluate complaints. The letter also reminds schools like UTA that

⁶ Sex discrimination includes complaints of sexual or gender based harassment, in the “Dear Colleague” letter and under Title IX.

“throughout a school’s Title IX investigation, including at any hearing, the parties must have an equal opportunity to present relevant witnesses and other evidence, and both the complainant and alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing.”

2. UTA’s “Title IX Investigations” policy and disciplinary procedure, in 2016.

25. In its Policy 9, UTA publishes a specific policy and procedure for investigating and responding to “Title IX Complaints.” *See*, Subchapter 9-900, II., I. It defines what constitutes a “Title IX Complaint” and *mandates* that allegations of sexual misconduct, including but not limited to sexual harassment, sexual assault and sexual violence, be *investigated and resolved* as Title IX Complaints, in accordance with UTA’s usual disciplinary process and procedure (Subchapter 9-300) with the following exceptions:

- a. All such “Title IX complaints” must be immediately reported to the Title IX Coordinator;
- b. The Title IX Coordinator is ultimately responsible for oversight of the investigation and resolution of *all* Title IX complaints; and,
- c. The Title IX Coordinator shall work with the Title IX Deputy Coordinator for students to assign a Title IX Investigator *in the place* of the Conduct Officer, who otherwise administers the disciplinary proceedings.⁷

The “Title IX Investigations” policy further mandates the following:

- a. Preparation of a report by the Title IX Investigator after conducting any necessary investigation and assessment, detailing the facts gathered; and,
- b. Forwarding of the report to the Deputy Title IX Coordinator *and* the Title IX Coordinator for review *before*

⁷ The policy does not authorize a Title IX Deputy Coordinator to exclude a Title IX Coordinator from an investigation, and to oversee it alone.

any hearing, to ensure oversight of the investigation and compliance with the disciplinary procedures and federal laws.

C. Bias and stereotyping against males accused of sexual harassment, sexual violence or aggressive behavior.

26. Plaintiff alleges that The University of Texas System, on behalf of all of its branches (including UTA), have sought prestige and publicity portraying themselves as leaders in curtailing sexual harassment, sexual violence and aggressive behavior on campus. For public relations purposes, and to preserve their federal funding, eligibility, the member branches of the University of Texas System (including UTA) have a vested interest in enacting swift and harsh punishment (almost always upon males) who are *merely accused* of sexual harassment, sexual violence or aggressive behavior, in order to preserve the appearance of their leadership on the issue of curtailing the same.

27. Plaintiff further alleges that in this case and (on information and belief) in others, UTA permissively has allowed investigative and disciplinary procedures other than those which are required by law or by their published policies and procedures (often with pre-determined outcomes), that are designed to unfairly discriminate against males accused of sexual harassment or sexual violence, and to punish them swiftly and severely, particularly if they refuse to admit to allegations asserted against them.

28. Plaintiff alleges that UTA discriminated against Thomas based on his gender and status as an accused male aggressor. As detailed below, when Watson reported a complaint against Thomas, Thomas was denied a proper Title IX investigation into Watson's allegations and he was denied a hearing, including a Title IX hearing. Thomas was pre-judged guilty of a student code of conduct violation. He was punished for the same, even though Snow and

Moore—who punished Thomas – knew there was no evidence to support the allegations against Thomas or the punishment they imposed. Snow and Moore were aggravated that Thomas refused to admit guilt, and they were deliberately indifferent to Thomas’ report that Watson had engaged in misconduct.

29. UTA’s disparate treatment of the respective reported allegations of misconduct by Watson and Thomas could not have been more blatant. UTA leapfrogged over any investigation or hearing of the allegations against Thomas – presuming and finding him guilty of a disciplinary code violation merely because of the allegations. In contrast, UTA completely ignored Thomas’ allegations against Watson, subjected him to no investigation or disciplinary inquiry at all, and chose instead, to retaliate against Thomas for accusing Watson of misconduct, and not admitting his own guilt.

D. Watson’s complaint and UTA’s improper response.

30. Snow admits that she and Watson knew each other before May 19, 2016, and that they had a friendly relationship such that Watson casually referred to Snow by her first name, even when communicating with her in her official capacity. Before Watson wrote up a complaint against Thomas, he “went to Snow” to tell her his story. Snow *advised* him what to do. Based upon the incident he described to her verbally, Snow became an advisor to and advocate for Watson, assisting him in writing up his complaint against Thomas. She was not acting as a neutral, unbiased or impartial UTA administrator.

31. At 12:13 p.m. on May 19, 2016, Watson sent an email to Snow that Snow previously advised him to prepare and send to her, alone. In his email to “Heather,” Watson accused Thomas of being an aggressor during a class that morning. He claimed that after commenting about privilege in today’s society, Thomas opened his laptop and typed into his web

browser's search bar "Gays should die." Watson alleges he typed into his own web browser search bar, "I'm gay." Watson further accused Thomas of feigning a yawn and stating, "well then you're a faggot." Stating that he told Thomas, "I think you should leave," Watson told Snow that he felt terribly scared and uncomfortable, after which Thomas supposedly told him "you should consider killing yourself." Watson confirmed that he waited until the class ended, and approached the professor about the incident. Although the professor supposedly advised Watson to go to student support services, Watson chose only to contact his friend, Snow.

32. Snow has testified that she viewed Watson's complaint as an allegation of sexual harassment and sexual violence of the type prohibited by Policy 9, subchapter 9-200 II.B.(1)(v.). At no time, however, did Snow advise or direct Watson to file a report of his allegations with UTA's Title IX Coordinator or UTA's police department, and Snow herself never reported the incident in question to UTA's Title IX Coordinator, or the UTA police department. Watson's complaints and allegations against Thomas were never reported to UTA's Title IX Coordinator. Snow also never communicated with Thomas. Had she done so, she would have learned that he vigorously denied and disputed Watson's allegations, and that he considered himself the recipient of harassment by Watson.

33. Snow decided to circumvent UTA's Title IX procedures by processing and responding to Watson's complaint, in her own way. When she did so, she knew that involving UTA's Title IX Coordinator would have invoked UTA's protective Title IX procedures, and that Ms. Hood would displace her in coordinating the investigation and resolution of Watson's complaint against Thomas, on a Title IX-compliant basis. In turn, Snow would lose the opportunity to dictate the process that would be implemented to ensure Thomas was swiftly and harshly punished and sanctioned, merely for being an *alleged* male aggressor.

34. Snow made the decision that rather than involving UTA's Title IX Coordinator or process, she would assume full control over processing and responding to the very same complaint that she, in whole or in part, had drafted for Watson. Toward that end, she reached out to Moore -- UTA's Associate Director of Academic Integrity -- and directed him to immediately notify Thomas that he was prohibited from attending and participating in the Course. She also directed that Thomas not be told Watson's name, and that Thomas should be prohibited from contacting *anyone* in the Course, directly or via someone acting on his behalf, in any manner. Snow directed Moore to proceed in this manner, before she ever sent Watson's complaint to him. And, Snow never informed Moore that the matter should be handled in accordance with UTA's Title IX procedures.⁸

E. Moore addressed Watson's complaint as a "Conduct Officer" -- not in accordance with UTA's Title IX Investigations policy and disciplinary procedure, or as a Title IX Investigator.

35. When asked during his pre-suit deposition to describe his duties and responsibilities as Associate Director of Academic Integrity, Moore did not identify serving as a Title IX investigator, as being among them. He testified that while he routinely was involved in disciplinary proceedings at UTA, they generally involved allegations of academic misconduct, such as cheating. He testified that allegations of harassment were usually presided over by his boss -- Charity Stutzman -- the UTA "Director of Community Standards." According to Moore, he occasionally became involved in such matters only on an "as needed" basis, and he became involved in this particular matter because Ms. Stutzman was on maternity leave when the alleged

⁸ Moore was neither a Title IX Coordinator nor a Deputy Title IX Coordinator. He had no idea that Title IX was involved in the matter, although Snow -- a Deputy Title IX Coordinator -- has testified that Moore was acting as a Title IX investigator.

incident was reported to Snow, and in turn, by Snow to him.

36. Moore testified he was acting as a Conduct Officer in the matter, as the term is defined in UTA's regular disciplinary procedures. He immediately complied with Snow's May 19th instructions to him. He sent a written notice to Thomas, which Thomas retrieved that afternoon.⁹ The notice informed Thomas that the Office of Student Conduct had been made aware that "[he was] involved in an alleged violation of the University Student Code of Conduct," although it failed to provide any details of what he allegedly had done or what he had been accused of doing. It confirmed that Thomas could not attend or participate in the Course, or communicate with anyone in the Course, live or electronically (in writing or verbally), and neither could anyone acting on his behalf. It also confirmed that he could not even enter the building in which the class met.

37. Thomas was stunned and confused when he received the notice, and immediately reported to Moore that he had not committed a violation of the student code of conduct and was confused about the notice. He expressed his need to attend class, and asked for more information. But Moore ignored his request, and provided him no further information until the next day, May 20th, when he issued another letter to Thomas that Moore has described as a summons letter.

38. Moore never informed Thomas that Moore was investigating what Snow believed was an allegation that Thomas had committed sexual harassment or sexual violence, or that Moore was acting as a "Title IX investigator." Moore made no mention to Thomas of Title IX or about his rights thereunder -- then or at any later time. And Moore never informed Thomas that

⁹ Snow also directed Moore to intercept Thomas at the classroom with a police officer, if he did not retrieve the letter before the next class session.

he was acting strictly as a Conduct Officer, who intended to both investigate and adjudicate Watson's complaint against Thomas without allowing a hearing, including one before an impartial hearing officer.

39. Moore likewise failed to disclose to Thomas that pursuant to Snow's instructions, he was using Watson's bare account of the reported incident "as the evidence" against Thomas to charge him with violations of the UTA student code of conduct. Moore also never disclosed to Thomas that beyond being the addressee in Watson's email complaint, Snow remained involved in the matter, instructing Moore about how to conduct the investigation, and how to punish Thomas.

40. In the May 20th summons letter, without having any evidence to corroborate Watson's allegations or talking with any witnesses (although Snow had told him the day before there were witnesses), Moore formally charged Thomas with two violations of UTA's conduct code: (a) physical abuse or threat of physical abuse;¹⁰ and (b) a non-specific violation of UTA's general anti-harassment policy, *citing* Policy 9-200 II.B.(1)(q.) and (w.).¹¹

41. Moore never involved UTA's Title IX Coordinator in the matter and he never followed UTA's Title IX Investigation policy. Instead, Moore's May 20th letter summoned Thomas to a May 23, 2016 meeting with him, notifying Thomas he would be given an opportunity to respond to the allegations against him or make an explanation. According to

¹⁰ Notably, Watson never accused Thomas of physical abuse or even threatening the same. At most, Thomas supposedly told Watson to consider killing himself.

¹¹ Charging Thomas with a violation of the Student Code of Conduct before investigating the incident was not only a violation of the pre-hearing report requirement under UTA's Title IX investigation policy, it also was a failure to comply with UTA's published disciplinary procedures, including 9-300(1)(a)(iii), which states *after* an investigation, the Conduct Officer may dismiss the allegations, proceed administratively under Policy 9, subchapter 9-300, II.C.1.c or proceed with notice or hearing under subchapter 9-400. It likewise was a failure to comply with Policy 9, subchapter 9-300(1)(a)(ii), which afforded Thomas the right to present witness testimony and other evidence, *before* being charged with a violation.

Moore, the summons letter transmitted Watson's May 19th email complaint (to Snow), describing it as "a statement of the evidence" supporting the allegation that Thomas harassed or threatened another student. No list of witnesses or any witness accounts were provided to Thomas, even though the letter said the same would be provided to Thomas. And Thomas had no way of seeking his own witness accounts of what happened in class on May 19th, because Thomas had been instructed that neither he, nor anyone acting for him, could make contact with anyone in the Course.

42. Moore never offered Thomas an opportunity to return to the classroom before doling out an interim and final punishment and academic sanction against Thomas. Meanwhile, Watson was given free reign to return to classroom and identify any witnesses who he believed would support his account of the alleged incident, although none ever came forward.

43. Moore's summons letter also made clear to Thomas that the charges against him carried a penalty ranging from "being placed on notice," to expulsion from UTA. But the summons letter did not inform Thomas that Moore would personally make findings of his guilt or innocence, or that Thomas would be denied a hearing in the matter even if he disputed the allegations against him, or he disputed any disciplinary punishment or sanctions against him.

44. Thomas met with Moore on May 23rd. Because of the seriousness of the charges and threatened penalties, he brought his father -- Wayne Klocke (who is a lawyer) -- with him, and asked that his father be permitted to join the meeting. Moore prohibited Wayne Klocke from joining the meeting, which deprived Thomas of the opportunity to have his father's help in better understanding: a) the allegations and charges against him, (b) the proper or required procedures for UTA to respond to and investigate such allegations, (c) Thomas' rights to a full, impartial hearing, and, (d) what needed to happen for Thomas to resume full participation in the Course.

When Wayne described to Moore his concerns about Thomas' urgent need (and right) to attend and participate in all portions of the Course, and reiterated that Thomas wanted him to join in the meeting, Moore neglected to inform Thomas or Wayne that Wayne's involvement in the meeting was appropriate, as long as Thomas waived confidentiality, allowing his father to attend. Of course, Moore knew Thomas waived such confidentiality and wanted his father to attend the meeting, so he effectively denied Thomas the right to have his father's assistance, without justification.

F. Moore also knew that Thomas disputed Watson's factual allegations and the propriety of any disciplinary sanction against him, including those Moore had proposed.

45. Moore's notes of his meeting with Thomas on May 23rd, show that Thomas told him the following:

- a. Thomas did not know his accuser (Watson)¹² and was concerned about how Watson knew his name;
- b. Watson sat next to Thomas in class on May 19th, and told Thomas he thought Thomas was beautiful;
- c. Thomas typed into his browser "stop – I'm straight," to which Watson typed into his browser, "I'm gay;"
- d. Watson continued glancing at Thomas and Thomas asked him to "stop;"
- e. Thomas never pretended to yawn, and Thomas told Watson to leave; then, both students stopped talking; and,
- f. Watson began typing on his phone and laughing, which Thomas found distracting, so Thomas changed seats and moved across the room after about 30-45 minutes.¹³

¹² Thomas did not know Watson's name.

¹³ Thomas later reported that he was the one who moved, to diffuse any tension.

Thomas denied saying “gays should die,” “you’re a faggot,” or “you should kill yourself.” He likewise denied making a comment about privilege. Thomas told Moore he was graduating that summer and needed the class to graduate, and that he had transferred from Iowa.

46. Later that evening, Moore emailed Thomas and told him to appear the next morning at a management office in “business 209” to take a Course exam, but in a private room. Moore showed no concern that Thomas had been excluded from the classroom in the prior days, and therefore was excluded from the classroom presentation of material to be tested on the exam, which he had no other way to receive because he was precluded from making contact with anyone in the Course. He also told Thomas he could continue to work with his group but not attend the classroom portion of Course. And he told Thomas he would interview a witness the next afternoon, and then would decide how the case against Thomas would proceed.

47. Although a hearing before an impartial hearing officer, under UTA’s Policy 9 – 9-400, was the required next step in any disciplinary proceeding against Thomas, in lieu of Moore making a decision on the charges against Thomas and imposing a disciplinary sanction, Moore never informed Thomas that pursuant to UTA Policy 9, subchapter 9-300 II.(d).(i), in cases where: a) an accused student disputes the facts of the allegations and does not agree with the sanctions proposed by the Conduct Officer; b) the case involves a proposed sanction including suspension, academic sanctions, or suspension of rights and privileges; and, c) the accused student has not waived a hearing (Thomas never waived any hearing), the charges against the student *shall* be heard and determined by a fair and impartial “Hearing Officer” who is not the Conduct Officer (i.e., not Moore, in this case).

G. Moore never provided Thomas with a hearing under Title IX or otherwise, and pronounced Thomas guilty of a conduct violation, despite the absence of evidence to support his finding of guilt.

48. During the meeting on May 23, 2016, Thomas not only disputed the allegations against him, he reported the occurrence of conduct by Watson that constituted sexual harassment as defined in UTA's Student Code of Conduct. But Moore opened no investigation into Watson's conduct, and offered no recommendation to Thomas to make a formal complaint of the same. Watson was never subjected to an investigation or disciplinary proceedings, or deprived of or denied any benefits and privileges of his educational program or participation in the Course. He suffered no sanctions of any kind, on an interim basis or otherwise, in marked contrast to how Thomas was treated based solely upon Watson's bare allegations, in his complaint to Snow.

49. During the afternoon of May 24th, the following occurred:

- a. Moore reported to Snow that he wanted her to know, "before finalizing" Thomas' case, that both Thomas and Watson needed the class to graduate during the summer, and that per the professor, there was no way for *Thomas* to do the class as an independent study.
- b. Snow asked Moore what his current thoughts were, and whether Thomas acknowledged the behavior Watson accused him of. Moore told Snow "not at all," and he reported that both students had completely different accounts of what happened (Moore did not share with Snow what Thomas' account was), and that "the only nearby witness that [Moore] could get just heard the same line 'I think you should leave,' but nothing else." And Moore told Snow he didn't have enough to keep Thomas out of the class.
- c. Snow agreed that "if there isn't enough to go off of," then allowing Thomas back into the class with a mutual no-

contact order between the students, was the proper resolution of the situation.

But Moore did not proceed to finalize the case by allowing Thomas back into the class with a mutual no-contact order being in place.

50. After informing Snow that after speaking with a witness, he did not have enough to keep Thomas out of class, and after Snow told him returning Thomas to class with a mutual no-contact order was a proper resolution, Moore proceeded to punish Thomas, nevertheless. Toward that end, he offered to seek another option before allowing Thomas back to class. Snow was pleased with that suggestion, and she told Moore to see if the Course was offered later in the summer, effectively confirming that Thomas not only should remain excluded from the classroom, but that he should be excluded from the Course altogether, despite the fact there was not enough to go off of, to keep Thomas out of the classroom.

51. Moore reported back to Snow fourteen (14) minutes later. Despite previously confirming he did not have enough to go off of to continue keeping Thomas out of the classroom, Moore told Snow he had “worked it out” to continue keeping Thomas out of the classroom. Snow thanked him and declared that it seemed like a “good resolution.”

52. Moore met with Thomas the next day, and thereafter sent him a letter dated May 25th, which informed Thomas of the following:

- a. During the May 25th meeting, Moore found that Thomas was responsible for harassment, as charged, and found there was insufficient evidence of a threat as charged;
- b. Thomas was placed on disciplinary probation through the remainder of his career at UTA, and the same created a reportable disciplinary record; and,
- c. Thomas would be sanctioned in the form of being restricted from attending or participating in the classroom portion of

the Course, while being allowed to work on group projects outside of the classroom.

Moore never identified the witness he told Thomas he would speak to before making a decision in the case. He never obtained a statement from that witness. He also never told Thomas that the witness did not corroborate Watson's story or allegations, or that he had decided the day before that the proper resolution of the matter was to allow Thomas to return to class, with a mutual no-contact order, because there was "not enough to go off of" to keep Thomas out of the class.

53. Moore also never explained to Thomas why he was found guilty of harassment, or how he could be found guilty of harassment when there was not evidence to corroborate Watson's allegations, such that Thomas could no longer properly be kept out of the classroom. Thomas was found guilty of harassment, and punished, in the absence of any evidence that justified keeping him out of the classroom, let alone that he harassed Watson. In explaining to Thomas that he had an appeal right, Moore never told Thomas that he had been wrongfully denied a hearing before an impartial officer to determine and decide the charges against him, in the place and stead of Moore doing so. After Thomas' death, Wayne Klocke was told that any appeal was to be directed to Snow, although neither Thomas nor Wayne were informed that she was actually a participant in making the decisions that would be the subject of such an appeal.

54. If UTA's Title IX procedures had not been circumvented by Snow and Moore, the following should have and would have occurred:

- a. An impartial Hearing Officer would have been appointed when Thomas denied the charges against him, and disputed the proposed discipline.
- b. After the Hearing Officer read the charges and explained the parties' rights, Moore as Conduct Officer would present

evidence of the charges – but not decide them – to the Hearing Officer.

- c. Thomas would have presented evidence in his defense, and each party would present rebuttal evidence and argument.
- d. Each party would have and exchange a list of witnesses and a summary of their testimony, copies of all documents to be introduced at the hearing, five days before the hearing.
- e. Each party would have a right to cross examine witnesses and a right to have an advisor of their choosing, including an attorney.
- f. The hearing would be recorded.
- g. The witnesses would testify under oath and the parties could object to evidence offerings.
- h. The Conduct Officer (*i.e.*, Moore) would have the burden of establishing the truth of the charges against Thomas by a preponderance of the evidence.
- i. The neutral, impartial Hearing Officer would decide responsibility, if any, and assess any punishment or sanctions.

53. In this case, motivated by a discriminatory gender oriented bias against Thomas -- an accused male aggressor -- UTA, acting through Snow and Moore -- deliberately and intentionally selectively enforced UTA's grievance procedures in a manner that was calculated to deny Thomas due process, avoid Title IX and its protections, and ensure that Thomas was found guilty of a code of conduct violation and punished severely in the form of an academic sanction that deprived him of the rights, privileges and benefits of his educational programming opportunities and activities. The outcome of the grievance procedures they selectively and erroneously enforced, in the place and stead of those that were required, was also erroneous, as well, and the error was caused by or motivated by the same discriminatory bias.

54. Thomas was devastated by and distraught because of the actions and omissions that are complained of herein and their impact on his life and future. His scholastic performance, and participation and necessary interaction with fellow students in the Course were severely impaired and his academic future and reputation were destroyed. The monies he spent obtaining the benefits of a college education were lost. And ultimately, the wrongful acts complained of herein produced in Thomas such embarrassment, rage, frenzy, and mental or emotional anguish and pain that he took his own life.

CAUSES OF ACTION

COUNT ONE: VIOLATION OF TITLE IX

55. Plaintiff incorporates paragraphs 1 through 54 above by reference and reasserts the same as if republished here.

56. Title IX of the Education Amendments of 1972 provides, in relevant part, that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

57. UTA receives federal funding. There is an implied private cause of action for the violation of Title IX described herein.

58. Both the Department of Education and the Department of Justice have promulgated regulations under Title IX that require a school to "adopt and publish grievance procedures providing for the prompt and equitable resolution of student... complaints alleging any action which would be prohibited by" Title IX or regulations thereunder. 34 C.F.R. § 106.8(b) (Dep't of Education); 28 C.F.R. § 54.135(b) (Dep't of Justice) (emphasis added). Such prohibited actions include all forms of sexual and gender-based harassment, including acts of

verbal, non-verbal or physical aggression, intimidation or hostility based on sex or sex-stereotyping.

59. The procedures adopted by a school covered by Title IX must not only "ensure the Title IX rights of the complainant," but must also "accord[] due process to both parties involved..."

60. The "prompt and equitable" procedures that a school must implement to "accord due process to both parties involved" must include, at a minimum:

- "Notice ... of the procedure, including where complaints may be filed;"
- "Application of the procedure to complaints alleging [sexual] harassment..."
- "Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;"
- "Designated and reasonably prompt timeframes for the major stages of the complaint process;" and,
- "Notice to the parties of the outcome of the complaint..."

61. A school (in this case UTA) also has an obligation under Title IX to make sure that all employees involved in the conduct of the procedures have "adequate training" as to what conduct constitutes behavior and allegations that constitute a complaint of misconduct that is to be investigated and responded to in accordance with Title IX and its requirements, and the university's Title IX investigation and disciplinary procedures.

62. Title IX prohibits a person, on the basis of sex, gender, or gender stereotyping, from being excluded from participation in any educational opportunity, program or activity for which he is otherwise eligible or to be discriminated against with regard to participation in the

same, or receiving the benefits and privileges of such eligibility.

63. Motivated by gender stereotyping and gender or sex based bias, UTA discriminatorily conducted its putative investigation of the incident of May 19, 2016, in a manner that was biased against Thomas -- the male being accused of being an aggressor. From the outset, Snow's and Moore's biased exclusive involvement in the investigation (circumventing the required Title IX Coordinator oversight of the same and the resolution of the complaint pursuant to a Title IX-compliant procedure) was highly improper and demonstrated an inherent bias and predetermination of guilt, merely because he was an accused male aggressor. This is, in part, evidenced by Snow's acting as an advisor and advocate for the complaining student Watson, and sponsoring the disciplinary punishment leveled against Thomas on an interim and permanent basis, despite the clear lack of evidence supporting Watson's allegations against Thomas.

64. The investigation process Snow and Moore selected and carried out was slanted in favor of the complaining student Watson, and his allegations were taken at face-value, even though unsupported by witnesses.

65. The disciplining decisions were made by Snow and Moore on behalf of UTA, without considering evidence or witnesses statements in support of Thomas' defense, and demonstrates UTA's favorable treatment of the complaining student solely on the basis of his gender and sexual orientation, and its unfavorable and discriminatory treatment of Thomas on the basis of his gender, gender stereotyping and being an accused male aggressor.

66. UTA created an environment where an accused male student is fundamentally denied due process by being prosecuted and persecuted through the incorrect conduct process, under a presumption of guilt. Such a one-sided and unfair process deprived Thomas, as a male

student, of educational opportunities, programming and activities at UTA on the basis of his sex. UTA violated Title IX by selectively enforcing its grievance procedures in a discriminatory manner, motivated by gender bias and gender stereotyping, which motivation also constituted an erroneous outcome in violation of Title IX.

67. UTA also was deliberately indifferent to its obligations under Title IX knowing that Title IX and its procedures (including the investigatory and disciplinary procedures), applied. Such deliberate indifference included failing to investigate and hold disciplinary proceedings in accordance with Title IX when the same were mandatory, denying any fair and equitable hearing before an impartial neutral decisionmaker, and ultimately ignoring Watson's misconduct – itself prohibited by Title IX and UTA's conduct policy.

68. UTA also wrongfully retaliated against Thomas by intimidating and discriminating against him for refusing to admit to engaging in the conduct alleged by Watson, for disputing the allegations factually, and for complaining that Watson engaged in misconduct against Thomas. Such retaliation also is prohibited by and is a violation by UTA of Title IX.

69. UTA's actions in violating the requirements of Title IX, including its discriminatory actions described herein, were intentional and deliberate, and causally resulted in Thomas suffering an adverse outcome, severe injury and harm.

70. Thomas' claims under Title IX survive his death. On behalf of the Estate of Thomas Klocke, Plaintiff is entitled to recover from UTA an award of monetary damages, attorneys' fees and costs, and disbursements.

**COUNT TWO: DEFAMATION AND
DEFAMATION PER SE (AGAINST WATSON)**

71. Plaintiff incorporates paragraphs 1 through 54 above by reference and reasserts

the same as if republished here.

72. Defendant Watson published statements of fact to UTA, via Snow, referring specifically to Thomas.

73. Watson's published statements about Thomas were false and defamatory and with regard to the truth of the same, Watson was acting with actual malice, he was negligent or he is strictly liable on a *per se* basis, for accusing Thomas of a crime, and/or because his publications are presumptively injurious.

74. Thomas suffered pecuniary injury (although no such showing is required due to the *per se* nature of the defamation).

75. Thomas' claims survive his death, and on behalf of the Estate of Thomas Klocke, Plaintiff seeks to recover actual damages, and exemplary or punitive damages of and from Watson.

JURY DEMAND

76. Plaintiff requests a trial by jury on all issues that are triable to a jury, in this case.

PRAYER

WHEREFORE, Plaintiff Wayne M. Klocke, Independent Administrator of the Estate of Thomas Klocke, requests that Defendants The University of Texas at Arlington, and Nicholas Matthew Watson be summoned to appear and answer this Complaint, and that judgment be entered for Plaintiff and against the Defendants, awarding Plaintiff damages, interest as allowed by law, costs of court, attorney's fees, and all such other and further relief that he may be entitled to, at law or in equity.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

EXHIBIT A

Policy 9

Student Conduct and Discipline

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- I. Title

UT Arlington's Code of Student Conduct and Discipline

II. Policy

A. Subchapter 9-100 General Provisions

The University of Texas at Arlington Office of Student Conduct strives to uphold and support a high standard of personal and academic integrity for all students in a manner that is consistent with the educational goals and mission of the University and UT System and the University's Academic Honor Code. This is achieved through a conduct process that focuses on personal responsibility and accountability for students' actions and the impact those actions might have on the greater community.

The office is engaged in educating the community regarding the University's standards and procedures for student conduct. These standards and procedures promote civility and protect the rights and safety of the UT Arlington community. The disciplinary process shall be fair, equitable, educational and developmental, supporting the commitment that students become responsible members of the University community.

1. Standards of Conduct

All students are expected and required to follow federal, state, and local laws, to comply with the Regents' *Rules and Regulations*, with The University of Texas System and institutional rules and regulations, with directives issued by an administrative official of the UT System or The University of Texas at Arlington in the course of his or her authorized duties, and to observe standards of conduct appropriate for an academic institution.

2. Purpose and Scope

The purpose of this chapter is to prescribe the standards of conduct expected of students enrolled at the University, specify disciplinary penalties which can be imposed when conduct does not conform to the prescribed standards, and establish due process procedures for the imposition of such penalties.

- a. A student neither loses the rights nor escapes the responsibilities of citizenship. All students are expected to follow federal, state and local laws and regulations, the Regents' *Rules and Regulations* [<http://www.utsystem.edu/bor/procedures/rules.htm>] of The University of Texas System, the rules and regulations of the University, the orders or instructions issued by an administrative official of the University or the UT System in the course of his/her duties, and to observe standards of conduct that are appropriate for an educational institution. Any student who engages in conduct that is prohibited is subject to disciplinary action regardless of whether such conduct takes place on or off the campus or whether civil or criminal penalties are also imposed for such conduct.

- b. Individuals who are not currently enrolled at a component institution of The University of Texas System remain subject to the disciplinary process for conduct that occurred during any period of enrollment and for statements, acts, or omissions related to application for enrollment or the award of a degree. The following persons shall be considered students for the purposes of these policies and regulations:
 - i. a person currently enrolled at UT Arlington
 - ii. a person who has applied for admission or readmission to an institution of the UT System or has been accepted for admission or readmission to UT Arlington
 - iii. a person who has been enrolled at an institution of the UT System in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows
 - iv. a person who engaged in prohibited conduct at a time when he or she met the criteria of i, ii, or iii immediately above

3. **Applicability**

Each student is responsible for the notice of and compliance with the provisions of the Regents' *Rules and Regulations* and the rules of the institution.

4. **Who is Subject to Discipline**

Any student (as defined in Subchapter 9-100, II.A.2.b, who engages in conduct that violates the Regents' *Rules and Regulations*, the UT System or institutional rules and regulations, specific instructions issued by an administrative official of the institution or the UT System acting in the course of his or her authorized duties, or federal, state, or local laws is subject to discipline. A student is subject to discipline for prohibited conduct that occurs on or off campus, including but not limited to institution or UT System sponsored off-campus activities such as field trips, internships, rotations, or clinical assignments, regardless of whether civil or criminal penalties are also imposed for such conduct.

5. **Bar From Campus**

A former student who has been suspended or expelled for disciplinary reasons is prohibited from being on the campus of any U.T. System institution during the period of such suspension or expulsion without prior written approval of the Vice President for Student Affairs of the U.T. System institution at which the suspended or expelled student wishes to be present. In a request for such approval, the former student is required to disclose in writing each institution from which the individual has been suspended or expelled and the conduct leading to the disciplinary action.

B. Subchapter 9-200 Administration of Discipline

1. Proscribed Conduct

- a. the violation of any provision of the Regents' *Rules and Regulations* of The University of Texas System;
- b. the violation of any rule or regulation of the University of Texas at Arlington or The University of Texas System;
- c. failure to comply with any order or instruction of an official of the University or the University of Texas System acting in the course of his/her duties;
- d. any student who damages, defaces, mutilates, destroys, or takes possession of any property, equipment, supplies, buildings, or facilities owned or controlled by the University, the UT System, or any other third party without authorization;
- e. any student who engages in the unauthorized use (including unauthorized entry) of property, equipment, supplies, buildings, or facilities owned or controlled by the UT System or institution;
- f. scholastic dishonesty, including, but not limited to, cheating, plagiarism, and collusion on an examination or an assignment being offered for credit. Each student is accountable for work submitted for credit, including group projects;
 - i. *cheating on an examination or an assignment includes:*
 - a. copying the work of another, allowing someone to copy, engaging in written, oral or any other means of communication with another, or giving aid to or seeking aid from another when not permitted by the instructor;
 - b. using material during an examination or when completing an assignment that is not authorized by the person giving the examination or making the work assignment, including, but not limited to, electronic or digital devices such as calculators, cell phones, camera phones, scanner pens, personal digital assistants, or flash drives, etc.;
 - c. taking or attempting to take an examination for another, or allowing another to take or attempt to take an examination for a student;
 - d. using, obtaining, or attempting to obtain by any means, the whole or any part of an examination or work assignment that is not provided for your use by your instructor;

- e. resubmission of work which has previously been submitted for course credit at any educational institution, unless prior approval is received from both faculty;
- f. any act designed to give unfair advantage to a student or the attempt to commit such an act;
- ii. *plagiarism* means the unacknowledged incorporation of the work of another in work that is offered for credit;
- iii. *collusion* means the unauthorized collaboration with another in preparing work that is offered for credit;
- g. a student who alters or assists in the altering of any official record of the UT System or institution or who submits false information or omits requested information that is required for or related to an application for admission, the award of a degree, or any official record of the UT System or institution or gives a false response to an inquiry made by an official of the University or the UT System acting in the course of his or her duties. The sanction for a former student who engages in such conduct may include a bar against readmission, revocation of degree, and withdrawal of diploma;
- h. forging or altering or attempting to forge or alter any parking permit, traffic ticket, or parking ticket issued by the University, any ticket for admission to a program or event sponsored by the University, any means of identification issued by the University, any instrument obligating the University to pay any sum of money, any key that may be used for entering any University facility, or participating in such action with others;
- i. accessing, utilizing, or participating with others in the access or use of any University, UT System, or third party record, instrument, or document (electronic or otherwise) except when such use is authorized by statute, a rule or regulation of the University, or with the written permission of the person to whom such record, instrument, or document relates;
- j. using, allowing use of, or participating with others in the use of any permit, means of identification, key or means of access, including electronic swipe cards or card keys, issued by the University or the UT System to a person other than the entitled;
- k. any intentional, knowing, or reckless act, occurring on or off campus of an educational institution, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated to, affiliating with, holding office in, or maintaining membership in any university student organization, group, or team whose members are or include students at an educational institution.

The term hazing includes, but is not limited to any type of physical

brutality, physical activity, activity involving consumption of food, liquid, drugs, or alcohol, activity that intimidates or threatens the student, or any activity that induces, causes, or requires the student to perform a duty or task which involves a violation of the Texas Education Code Section 51.936

[<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm#51.936>] ;

Hazing with or without the consent of a student whether on or off campus is prohibited, and a violation of that prohibition renders both the person inflicting the hazing and the person submitting to the hazing subject to discipline. Knowingly failing to report hazing can subject one to discipline. Initiations or activities of organizations may include no feature that is dangerous, harmful, or degrading to the student, and a violation of this prohibition renders both the organization and participating individuals subject to discipline.

Hazing in state educational institutions is prohibited by State law (Texas Education Code Section 51.936

[<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm#51.936>] and Sections 37.151 - 37.157

[<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.37.htm#37.151>]).

- I. illegal use, manufacture, possession, sale, or distribution of any substance that is a controlled substance under federal or state law or regulation, or the possession and/or use of paraphernalia associated with a controlled substance, or the use of any substance (e.g., nitrous oxide, glue, paint, etc.) in a manner other than prescribed or directed with the intent to alter a student's mental state;

If a student is found responsible for the illegal use, possession, and/or sale of a drug or narcotic on campus, the minimum sanction assessed shall be suspension from the institution for a specified period of time and/or suspension of rights and privileges.

- m. unauthorized use or possession of any intoxicating beverage including, but not limited to, minor in possession, minor in the presence, public intoxication, allowing minors access, or any violation of alcohol policy;

The University, in support of the Texas Alcoholic Beverage Commission amnesty policy, affords amnesty to a minor seeking aid in a medical emergency if the minor (1) requested 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 under Subdivision (1); and (3) if the minor requested emergency medical assistance for the possible alcohol overdose of another person: (A) remained on the scene until the medical assistance arrived; and (B) cooperated with medical assistance and law enforcement personnel.

- n. any conduct that constitutes a violation of a federal, state, or local law or regulation regardless of whether the conduct results in the imposition of the penalty prescribed by the federal, state, or local law;
- o. possession or use of any type of explosive, firearm, imitation firearm, ammunition, hazardous chemical, or weapon as defined by state or federal law, in or on a University facility except as may be authorized by federal, state, or local law;
- p. advocacy, either oral or written, that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;
- q. physical abuse or threat of physical abuse of any person whether on or off campus;
- r. engaging in behavior that would be deemed by a reasonable person to be disruptive in nature;

Disruptive behavior includes, but is not limited to, engaging in or attempting to engage in conduct, either alone or in concert with others, that is intended to obstruct, disrupt, or interfere with, or that in fact obstructs, disrupts, or interferes with any instructional, educational, research, administrative, or public service activity or program, or any athletic event or public performance or other activity authorized to be conducted in or on a University facility;

Obstruction or disruption may include noise violations, any act that interrupts, modifies, or damages utility service or equipment, communication service or equipment, or computer equipment, software, or networks, or any behavior which results in the inappropriate utilization of University resources.

- s. using any University fountain or other artificial body of water, that is not designed and maintained for recreation or therapeutic purposes, in an unauthorized manner. This includes:
 - i. entering, walking, lying, playing, remaining, or being in the water of any fountain or other artificial body of water
 - ii. dumping, throwing, placing or causing any material, object, trash, waste, soap, or debris to be placed in the water of any fountain or other artificial body of water
- t. engaging in any behavior prohibited by the terms of suspension (outlined in formal notification of suspension) that takes place during the period of suspension;
- u. any student who engages in conduct that endangers the health or safety or welfare of any person;

- v. any violation of the University's sexual harassment policy as outlined in *Sexual Harassment, Sexual Misconduct and Consensual Relationships* (Procedure 14-1 [<https://www.uta.edu/policy/procedure/14-1>]).

The University affords amnesty to victims reporting sexual assault or other violent crimes. For details on this policy contact the Relationship Violence and Sexual Assault Prevention Educator (rvsp@uta.edu [<mailto:rvsp@uta.edu>]).

- w. any violation of the University's harassment policy as outlined in Harassment (HOP Subchapter 4-200).

C. Subchapter 9-300 Initiation of Disciplinary Charges

1. Investigation and Preliminary Action

a. Disciplinary Process

- i. The Office of Student Conduct will investigate allegations that a student has engaged in conduct that violates any of the policies outlined in Subchapter 9-200, II.B.1.
- ii. The investigation is intended to be tailored reasonably and appropriately to the facts and circumstances of the particular case. Typically, it will include interviews with the complainant, the respondent, and witnesses. Interviews may be supplemented by the gathering of physical, documentary, or other evidence within reason and under the circumstances of the particular case. As part of the investigation, the University will provide the parties an opportunity to present witness testimony and other relevant evidence. In sum, the investigation is intended to provide for the reasonable gathering of reliable and relevant facts. It is intended to be thorough, impartial, and respectful of the individuals involved. The investigation process will endeavor to respect, within reason, the privacy of individuals involved.
- iii. The investigation and disciplinary action may proceed regardless of whether action is taken by other authorities. The Office of Student Conduct may contact a student for a meeting for purposes of the investigation and/or to discuss the allegations or may summon any student as provided in Subchapter 9-300, II.C.1.b. for an administrative meeting. After an investigation the Conduct Officer may:
 - dismiss the allegations, or
 - proceed administratively under Subchapter 9-300, II.C.1.c., or
 - proceed with notice and hearing under Subchapter 9-400.

b. Summoning a Student

- i. The Office of Student Conduct may summon any student for the purposes of the investigation and/or discussion of allegations that the student has engaged in conduct that may result in disciplinary action. The written request shall specify a place for the meeting and a time at least three weekdays after the date of the written request if the request is sent regular mail, or at least two weekdays after the date of the request if the request is sent by email or hand delivered. The written request may be mailed to the student at the address appearing in the Registrar's records; emailed to the student at the student's University issued email address; or may be hand delivered to the student.
- ii. If a student fails to appear without a valid reason, the Office of Student Conduct may bar or cancel the student's enrollment until the student appears or responds to the summons or may proceed with the disciplinary procedures in the absence of the student.
- iii. The failure of the student to maintain a current address with the Registrar; to refuse to accept a registered or certified letter; or failure to read mail or email shall not be a valid reason for failure to comply with a summons letter.

c. Administrative Disposition

- i. The Conduct Officer will review the evidence, determine whether to proceed with charges, and if so, determine the sanction appropriate to the charges. Before proceeding with disciplinary action, the Conduct Officer will offer the student the opportunity to respond to the charges and review available evidence supporting the charges.
- ii. If a student elects not to dispute the alleged facts upon which the conduct violations are based and agrees to the sanctions the conduct Officer proposes, the student may execute a written waiver of the hearing procedures and waiver of any appeals under the policy. This administrative disposition shall be final and there shall be no subsequent proceedings regarding the charges.
- iii. In any case where the accused student elects not to dispute the facts upon which the charges are based, but does not agree with the sanctions proposed by the Conduct Officer, the student may execute a written waiver of the hearing procedures specified under Subchapter 9-400, yet retain the right to appeal the decision of the Conduct Officer only on issue of sanction(s). This appeal will be heard by the President or his/her designee and must be made in writing and submitted within 14 calendar days of the decision being rendered.

d. Challenging the Disciplinary Action

- i. Cases in which the proposed sanction(s) involve suspension, academic sanctions or expulsion: in those cases in which the Conduct Officer proposes suspension, including suspension of rights and privileges, academic sanctions, or expulsion as a sanction, the charges shall be heard and determined by a fair and impartial Hearing Officer in accordance with Subchapter 9-400. However, a student may elect to sign an administrative disposition waiving the right to the hearing under Subchapter 9-400, but reserving the right to appeal only the sanction. Such an appeal regarding the sanction will be to the President or his/her designee and must be made in writing and submitted within 14 calendar days of the decision being rendered.
- ii. Cases in which neither suspension, an academic sanction, nor expulsion is proposed by the Conduct Office: the Conduct Officer will inform the student in writing of the charges, evidence, findings, and the sanction(s) and allow the student an opportunity to meet with the Conduct Officer to provide evidence on his/her behalf; unless signing a waiver as outlined in Subchapter 9-300, II.C.1.c. the student maintains the right to appeal the finding of the Conduct Officer and/or the proposed sanctions to the President or his/her designee, this appeal must be made in writing and submitted within 14 calendar days of the decision being rendered.

e. Interim Disciplinary Action

- i. After an initial assessment of the allegations and evidence by the investigator, pending a hearing or other disposition of the allegations against a student, the Office of Student Conduct may take such immediate interim disciplinary action as is appropriate to the circumstances when such action is in the best interest of the institution. This includes, but is not limited to, suspension and a bar from the campus when it reasonably appears to the Director of the Office of Student Conduct, from the circumstances, that the continuing presence of the student poses a potential danger to persons or property or a potential threat for disrupting an authorized program or activity of the University.
- ii. When interim disciplinary action is imposed, the student is entitled to administrative disposition of the allegations under Subchapter 9-300, II.C.1.c. or a hearing before a Hearing Officer under Subchapter 9-400. A hearing following interim disciplinary action will generally be held within 10 days after the interim disciplinary action was taken, however, at the discretion of the Director of the Office of Student Conduct the 10 day period may be shortened, or extended for a period not to exceed an additional 10 days. Notwithstanding the above, the Office of Student Conduct may withhold the issuance of an official transcript, graduation, diploma, or degree to a student alleged to have violated a rule of regulation of the University of Texas System or the University which would reasonably allow the imposition of such

sanction. The Office of Student Conduct may take such action pending a hearing, resolution by administrative disposition, and/or exhaustion of appellate rights if the Conduct Officer has provided the student an opportunity to provide a preliminary response to the allegations and in the opinion of the Director of the Office of Student Conduct, the best interests of the University of Texas System and the University would be served by this action.

2. Discipline by Faculty

- a. A faculty member who believes that a student has engaged in a violation of the University's policy on scholastic dishonesty as outlined in Subchapter 9-200, II.B.1.f. will initiate and follow reporting procedures of the Office of Student Conduct.
- b. If the student was enrolled in the course during the term that the violation occurred, faculty members are authorized to take the following actions after meeting with students or referring them to the Office of Student Conduct for adjudication:
 - i. If the student does not dispute the facts upon which the allegation of scholastic dishonesty is based and executes a written waiver of the hearing procedures the faculty member may assess an academic penalty and refer the case to the Office of Student Conduct for assessment of a disciplinary sanction(s); the student may appeal the disciplinary sanction assessed under Subchapter 9-300, II.C.1.c. The appeal is limited to the issue of the disciplinary sanction(s).
 - ii. If the student disputes the facts upon which the allegation of scholastic dishonesty is based or the faculty member does not meet with the student, the faculty member will refer the matter to the Office of Student Conduct for processing under Subchapter 9-300, II.C.1. and issue an incomplete grade until the matter is adjudicated.
 - iii. If the student was not enrolled in the course during the term that the violation occurred, the faculty member will refer the case to the Office of Student Conduct for assessment of a disciplinary sanction(s); the faculty member may not impose an academic penalty in a course that was previously completed in a prior term or in a separate course that the student is enrolled in.

D. Subchapter 9-400 Hearing Process

In those cases in which the accused student disputes the facts upon which the charges are based and the disciplinary penalty being imposed involves Suspension, Academic Sanctions or Expulsion such charges shall be heard and determined by a fair and impartial Hearing Officer.

1. Interim Disciplinary Action Accelerated Hearing

When interim disciplinary action has been taken by the Office of Student Conduct under Subchapter 9-300, I.C.1.e, the student will be given the opportunity to have a hearing of the charges in accordance with the procedures specified in Subchapter 9-400 within 10 days after the interim disciplinary action was taken; however, at the discretion of the Conduct Officer, the 10-day period may be shortened, or extended for a period not to exceed an additional 10 days.

2. Notice of Hearing

Except in those cases where immediate interim disciplinary action has been taken, the accused student shall be given at least 10 days written notice of the date, time, and place for such hearing and the name of the Hearing Officer. The notice shall include a statement of the charge(s), names of witnesses and a summary of their testimony, and a summary statement of the evidence supporting such charge(s). The notice shall be delivered in person to the student or mailed to the student at the address appearing in the registrar's records. A notice sent by mail will be considered to have been received on the third day after the date of mailing, excluding any intervening Sunday. The date for a hearing may be postponed by the Hearing Officer for good cause or by agreement of the student and Conduct Officer. If the hearing is postponed it is responsibility of the accused student and the Conduct Officer to notify their respective witnesses.

3. Impartiality of the Hearing Officer(s)

The accused student may challenge the impartiality of a Hearing Officer(s). The challenge must be in writing, state the reasons for the challenge, and be submitted to the Hearing Officer(s) through the Office of Student Conduct at least three weekdays prior to the hearing. The Hearing Officer(s) shall be the sole judge of whether he or she can serve with fairness and objectivity. In the event a Hearing Officer(s) disqualifies himself or herself, a substitute will be chosen in accordance with procedures of the institution.

4. Duties of Hearing Officer(s)

The Hearing Officer(s) is responsible for conducting the hearing in an orderly manner and controlling the conduct of the witnesses and participants in the hearing. The Hearing Officer(s) shall rule on all procedural matters and on objections regarding exhibits and testimony of witnesses, may question witnesses, and is entitled to have the advice and assistance of legal counsel. The Hearing Officer(s) shall render and send to the Office of Student Conduct a written decision that contains findings of fact and a conclusion as to whether the accused student is responsible for the violations as charged. Upon a finding of responsibility the Hearing Officer(s) shall assess disciplinary action and/or sanctions specified in Subchapter 9-500.

5. Hearing Procedures

- a. The hearing shall proceed in the following manner:
 - i. The Hearing Officer shall read aloud the charges against the accused student, explain the rights of the parties and answer questions from the parties concerning the procedures to be followed;
 - ii. The Conduct Officer shall proceed to present evidence in support of the charges;
 - iii. The accused student shall present evidence in his/her defense;
 - iv. Each party may present rebuttal evidence; and
 - v. Argument may be presented by each party
- b. Each party shall provide the other party a list of witnesses, a brief summary of the testimony to be given by each, and a copy of documents to be introduced at the hearing at least five days prior to the hearing. This does not preclude either party from offering evidence that is strictly in rebuttal to evidence or testimony presented by the other party during the course of the hearing.
- c. Each party shall have the right to appear, present testimony of witnesses and documentary evidence, cross-examine witnesses, and be assisted by an advisor of choice. The advisor may be an attorney. If the accused student's advisor is an attorney, the Conduct Officer's advisor may be an attorney from the University or the System. An advisor may confer with and advise the Conduct Officer or accused student, but shall not be permitted to question witnesses, introduce evidence, make objections, or present argument to the Hearing Officer(s). In sexual harassment/sexual assault cases, the alleged victim shall have the right to be present throughout the hearing, to have an advisor present during the hearing, to have irrelevant past sexual history with third parties excluded from the evidence, and to have a closed hearing.
- d. The Conduct Officer may recommend a sanction to be assessed by the Hearing Officer(s). The recommendation may be based upon past practice of the institution for violations of a similar nature, the past disciplinary record of the student, or other factors deemed relevant by the Conduct Officer. The accused student shall be entitled to respond to the recommendation of the Conduct Officer.
- e. The hearing will be recorded. If either party desires to appeal the decision of the Hearing Officer(s) in accordance with Subchapter 9-600, the official record will consist of the recording of the hearing, the documents received in evidence, and the decision of the Hearing Officer(s). At the request of the Appellate Officer, the recording of the hearing will be transcribed and both parties will be furnished a copy of the transcript. No other camera or photographic equipment of any kind, nor any equipment that may be used to record or transmit sound, shall be permitted to be used in the hearing

room or in the hallway immediately outside of the hearing room during the hearing process.

- f. The hearing officer has full discretion in maintaining the decorum of the hearing. If at any point the Hearing Officer determines that any person(s) in attendance at the hearing causes or contributes to any disruption, disturbance, or distraction of the hearing, such person(s) shall be required to leave the hearing room.
- g. If the accused student fails to appear at the time and place scheduled for the disciplinary hearing, the hearing shall proceed in the absence of the student and without benefit of their testimony.
- h. For hearings of Title IX Complaints, as defined hereafter, to protect the complainant, the Hearing Officer may allow the victim and accused to appear separately, appear through the use of teleconferencing technology, place a petition or divider between the victim's seat and the accused, or take any other reasonable precautions.

6. Burden of Proof

- a. The Conduct Officer shall have the burden of establishing the truth of the charges against the accused student by the preponderance of the evidence. The term preponderance of the evidence means the greater weight of the credible or believable evidence.
- b. As the party having the burden of proof, the Conduct Officer shall have the right to open and conclude, both in presenting evidence and in argument. In the argument at the close of presentation of evidence, the Conduct Officer may recommend a sanction to be assessed by the Hearing Officer in the event the accused student is found responsible for the charges. The recommendation may be based upon penalties assessed in the past for violations of a similar nature, the nature and circumstances of the conduct, the past disciplinary record of the accused student, or other relevant factors. The accused student shall be entitled to respond to the recommendation in his/her argument to the Hearing Officer.

7. Witnesses

- a. Each witness shall be requested by the Hearing Officer to swear or affirm that the testimony he/she will give will be true.
- b. The witnesses shall be removed from the hearing room to some place where they cannot hear the testimony given by any other witness in the hearing. This process is called placing the witnesses under the rule. Neither party shall be placed under the rule. Witnesses placed under the rule shall be instructed by the Hearing Officer not to converse about the case or their testimony with each other or with any person other than the parties or their respective advisor, and that they are not to read any report of or comment upon the testimony given at the hearing while under the

rule. Violation of such instructions will result in the imposition of such sanction as the Hearing Officer may deem appropriate, including the exclusion of the testimony of the witness.

- c. For hearings of Title IX Complaints, as defined hereafter, a party shall not be entitled to personally question or cross-examine the other party. The Hearing Officer may choose to allow the parties to submit questions to the Hearing Officer to ask the questions on their behalf. The Hearing Officer may screen the questions submitted by the parties and only ask those it deems appropriate and relevant to the case. Questions about the complainant's sexual history with anyone other than the alleged perpetrator will not be permitted. Further, the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual misconduct.

8. Evidence

- a. The term Evidence refers to the means by which alleged facts are either proved or disproved. It includes the testimony of witnesses and documentary or objective exhibits offered by the parties and admitted by the Hearing Officer.
- b. The Hearing Officer shall be the sole judge of the admissibility of evidence, the credibility of the witnesses, the weight to be given to the evidence, or any inference drawn there from. The Hearing Officer may ask such questions of witnesses or the parties as may be deemed appropriate to ascertain the facts or to aid the Hearing Officer in deciding the admissibility of evidence, the credibility of a witness, or the weight to be given to evidence admitted.
- c. Documents, letters, writings, pictures, drawings, or objects that a party plans to offer in evidence shall first be given to the Hearing Officer to be marked and identified as the exhibit of that party and listed by the Hearing Officer. After being marked and identified, each exhibit shall be shown to the opposing party and that party shall be given the opportunity to object to the admission of the exhibit.
- d. Either party may object to the admission of evidence upon any ground deemed appropriate. The Hearing Officer shall rule upon such objections and either admit or exclude the evidence.
- e. Evidence which is irrelevant, immaterial, or unduly repetitious will be excluded by the Hearing Officer upon objection of either party.

9. Decision

The Hearing Officer must within 10 days render a written decision to the Office of Student Conduct that contains findings of fact and a conclusion as to whether the student is responsible for the violations charged. Upon a finding

of responsibility, the Hearing Officer shall assess disciplinary actions as specified in Subchapter 9-500, II.E.1, and disciplinary sanction(s) as specified in Subchapter 9-500, II.E.2.

UTA will disclose to the alleged victim of a crime of violence or non-forcible sex offense, the report of the results of any disciplinary proceeding conducted by UTA against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim.

E. Subchapter 9-500 Disciplinary Outcomes

1. Disciplinary Action

The following actions may be taken by the Office of Student Conduct or by the Hearing Officer(s) as applicable, in accordance with these procedures. Disciplinary actions may result in a reportable disciplinary record as outlined below:

- a. **On Notice:** the student is formally notified of the University's policy related to an alleged violation.
- b. **Official Warning:** the student is formally warned that their behavior was found to be a violation of University policy.
- c. **Disciplinary Probation:** the student's status is between "good standing" and dismissal from the institution, further violations will likely result in suspension or expulsion. Disciplinary probation may limit a student's ability to be involved in campus life (student organizations, study abroad, etc.). Disciplinary probation results in a seven year reportable disciplinary record.
- d. **Suspension of Rights and Privileges:** the student shall not be eligible to participate in official events or activities of the University or the UT System, whether athletic or non-athletic, shall not join a registered student organization or participate in any meetings or activities of a registered student organization of which he/she may already be a member, or shall not be appointed or elected to or continue to function in any office or position within student government or the student newspaper or may not be inducted into or continue to participate as a member of an honorary or service organization. Student may also be barred from entering specified buildings or restricted from using particular facilities during the period of suspension. Students may be barred from residing in and entering all University owned or controlled housing, residence halls, or apartments.
- e. **Bar Against Readmission:** an individual is ineligible to enroll at the University during the period of the bar.
- f. **Suspension:** a student may not attend any courses and may not enter in or on University property or facilities, except in response to an official

summons from the Office of Student Conduct during the period of suspension. Suspension creates a permanent reportable record and is noted on the official transcript during the term of suspension. Students who are currently enrolled will be administratively withdrawn from all courses, and refunds will not be issued.

- g. **Expulsion from the University:** a student is administratively withdrawn from any current courses and a permanent bar against readmission and a bar from campus are imposed. Expulsion creates a permanent reportable record and a permanent transcript notation.
- h. **Revocation of Degree and Withdrawal of Diploma:** a student is found responsible for a violation after the conferral of degree and awarding of diploma. Appropriate licensing boards/agencies are notified when this occurs. This creates a permanent reportable record and a permanent transcript notation.
- i. **Withholding of Grades, Official Transcript, and/or Degree:** this action may be taken pending the results of the disciplinary process or upon outcome of the hearing.
- j. **Interim Disciplinary Action:** immediate action is being taken by the Office of Student Conduct pending the disposition of the formal hearing in accordance with Subchapter 9-400.

2. Disciplinary Sanctions

The following sanctions may be assigned to students in addition to the actions outlined above:

- a. **Educational Programs or Activities:** developed to expand the student's understanding of the regulation or policy and/or to help the student learn more about himself/herself in relation to the policy or violation.
- b. **Community Service:** a student may be assigned to complete hours of community service at a registered non-profit agency of their selection.
- c. **Parental Notification:** pursuant to federal exemptions of FERPA policy, the Office of Student Conduct may contact parents for students found responsible for alcohol or drug related violations.
- d. **Restitution or Reimbursement:** requires a student to make restitution or reimburse the University for loss or damage to, or unauthorized taking or use of, property owned or controlled by the University or any other third party when the conduct of the student has resulted in such loss or damage. The student shall be advised of the amount of the loss or damage, and it may either be charged to the student's University account or submitted by the student to the Office of Student Conduct via cashier's check by a deadline specified.

- e. **Grading Penalty:** students may be assigned a grading penalty in association with a finding of responsibility in a scholastic dishonesty violation. This grading penalty is determined by the faculty member of record for the course in which the violation occurred, and the recommended grading penalty will be disclosed by the faculty member when the violation is reported to the Office of Student Conduct.
- f. Other sanctions as deemed appropriate under the circumstances.

F. Subchapter 9-600 Appeal Process

A student may appeal a disciplinary action taken by the Office of Student Conduct in accordance with Subchapter 9-500. Either the Office of Student Conduct or the student may appeal the decision of the Hearing Officer(s). In sexual harassment/sexual assault cases, the alleged victim may pursue an appeal under the same procedure as the accused student. An appeal shall be in accordance with the following procedures:

1. Appeal Procedures

The appealing party must submit a written appeal stating the specific reasons for the appeal and any argument to the President of the institution or his/her designee (hereafter "Appeal Official") with a copy to the other party. The appeal must be stamped as received in the Office of Appeal Official no later than 14 days after the appealing party has been notified of the sanction assessed by the Conduct Officer or the decision of the Hearing Officer(s). If the notice of sanction assessed by the Conduct Officer or the decision of the Hearing Officer(s) is sent by mail, the date the notice or decision is mailed initiates the 14-day period for the appeal. The non-appealing party, and in sexual harassment/sexual assault cases, the alleged victim, may submit a response to the appeal, which must be received by the Appeal Official no later than five days after receipt of the appeal, with a copy to the other party. An appeal of the sanction assessed by the Conduct Officer in accordance with Subchapter 9-300, II.C.1.d will be reviewed solely on the basis of the written argument of the student and the Conduct Officer. The Office of Student Conduct will submit the record from the hearing to the Appeal Official as soon as it is available. At the discretion of the Appeal Official, both parties may present oral argument in an appeal from the decision of the Hearing Officer(s).

2. Appeal Official's Authority

The Appeal Official may approve, reject, or modify the decision in question or may require that the original hearing be reopened for the presentation of additional evidence and reconsideration of the decision. It is provided, however, that upon a finding of responsibility in a case involving the illegal use, possession, and/or sale of a drug or narcotic on campus, the sanction may not be reduced below the sanction as prescribed by Subchapter 9-200, II.B.1.

3. Communication of Decision

The action of the Appeal Official shall be communicated in writing to the student(s) and the Office of Student Conduct within 30 days after the appeal and related documents have been received. The decision of the Appeal Official is the final appellate review.

4. Effect of Appeal upon Disciplinary Action

An appeal of the decision of the Conduct Officer or the Hearing Officer(s) shall temporarily hold any disciplinary action pending the final decision of the Appeal Official except when interim disciplinary action has been taken.

When the decision of the Conduct/Hearing Officer is upheld, any previously determined dates associated with the sanctions/actions imposed may be adjusted as a result of the appeal timeline at the discretion of the Appeal Official.

G. Subchapter 9-700 Disciplinary Record

The University will maintain a permanent written disciplinary record for every student assessed a sanction of suspension, expulsion, denial or revocation of degree, and/or withdrawal of diploma. A record of scholastic dishonesty will be maintained for seven years unless the record is permanent in conjunction with the above stated sanctions. A disciplinary record shall reflect the nature of the charge, the disposition of the charge, the sanction assessed, and any other pertinent information. This disciplinary record shall be maintained by the Office of Student Conduct. It shall be treated as confidential, and shall not be accessible to anyone other than university officials with legitimate educational interests, except upon written authorization of the student or in accordance with applicable state or federal laws or court order or subpoena.

H. Sub-Chapter 9-800 Timelines

All timelines stated herein may be extended or shortened by the University for good cause provided that there is no detriment to the investigation, the complainant or the accused. The University endeavors to resolve all reports of sexual misconduct within sixty (60) days in accordance with the Department of Education's Office for Civil Rights guidelines. To the extent possible, investigators and decision makers are encouraged to process complaints expeditiously, while maintaining the integrity of the investigation. Circumstances may arise that require the extension of time frames, including extension beyond sixty (60) days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances. In the event that the investigation and resolution of a report of sexual misconduct exceeds sixty (60) days, the University will notify all parties of the reason for the delay and the expected adjustment in time frames. 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 agree to defer its fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the complainant regarding Title IX rights, procedural options, and the implementation of interim measures to ensure safety and well-being. 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.

I. Sub-Chapter 9-900 Title IX Investigations

Allegations of sexual misconduct, including but not limited to sexual harassment, sexual assault, sexual violence, stalking, dating violence, and domestic violence (collectively "Title IX Complaints") shall be investigated and resolved as violations of student conduct as outlined in Sub-Chapter 9-300, et. seq. with the following exceptions.

1. Title IX Coordinator and Deputy Coordinator.

Title IX Complaints shall be immediately reported to the Title IX Coordinator as required by *Sexual Harassment and Sexual Misconduct Policy* (Policy 5-513 [<https://www.uta.edu/policy/hop/5-513>]). The Title IX Coordinator is ultimately responsible for oversight of the investigation and resolution of all reports of Title IX Complaints. The Title IX Coordinator shall work with the Title IX Deputy Coordinator for students, to assign a Title IX Investigator in place of the Conduct Officer. Except as provided for within this sub-chapter, the investigation, hearing and appeal processes shall be conducted in accordance with Sub-Chapter 9-300 et. seq. After conducting any necessary assessment/investigation, but prior to any hearing the investigator will prepare a report setting forth the facts gathered, which will be forwarded to the Deputy Coordinator and Title IX Coordinator for review to ensure oversight of the investigation. The University Title IX Coordinator may provide guidance throughout the discipline process to ensure policy and federal laws are followed. Based on the outcome of the investigation and/or hearing, the Title IX coordinator will take appropriate measures designed to end the type of misconduct, prevent its recurrence, and address its effects.

III. Definitions

Administrative Disposition: a document signed by the student and the Conduct Officer which includes a statement of the disciplinary charges, the findings, the sanction, and a waiver of the hearing procedures and possibly a waiver of appeals under Regents' *Rules and Regulations*, Rule 50101 [<http://www.utsystem.edu/bor/rules/50000Series/50101.pdf>], Part 2, and institutional rules regarding student discipline

Campus: all real property, buildings, or facilities owned or controlled by the institution

Vice President for Student Affairs: the administrative officer primarily responsible for the development and administration of policies relating to students, for the development and implementation of services to students, and for the initial preparation of institutional regulations that will implement the policies and regulations set forth in this rule

Conduct Officer: the administrative officer or officers responsible for the administration of the disciplinary process at each institution. The Conduct Officer acts under the direction of the Vice President for Student Affairs.

Hearing Officer: an individual or individuals selected in accordance with procedures adopted by the institution pursuant to the recommendation of the Vice President for Student Affairs to hear disciplinary charges, make findings of fact, and, upon a finding of responsibility, impose an appropriate sanction(s)

Student: the following persons shall be considered students for purposes of these policies and regulations:

- A. a person currently enrolled at an institution of the UT System
- B. a person accepted for admission or readmission to an institution of the UT System
- C. a person who has been enrolled at an institution of the UT System in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows
- D. a person who engaged in prohibited conduct at a time when he or she met the criteria of 1, 2, or 3

Day: a calendar day, except for any day that is an official holiday of the institution or when regularly scheduled classes are suspended due to emergent situations

Weekday: Monday through Friday, excluding any day that is an official holiday of the institution or when regularly scheduled classes are suspended due to emergent situations.

IV. Relevant Federal and State Statutes

Texas Education Code Section 51.936
[<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm#51.936>] and Sections 37.151 - 37.157
[<http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.37.htm#37.151>].

V. Relevant UT System Policies, Procedures, and Forms

Sexual Harassment, Sexual Misconduct and Consensual Relationships (Procedure 14-1
[<https://www.uta.edu/policy/procedure/14-1>])

Regents' Rules and Regulations, Rule 10501
[<http://www.utsystem.edu/bor/rules/10000Series/10501.pdf>] , Part 2, Relationship
Violence and Sexual Assault Prevention Educator (rvsp@uta.edu
[<mailto:rvsp@uta.edu>])

VI. Who Should Know

Each student is responsible for the notice of and compliance with the provisions of the Regents' Rules and Regulations and the rules of the institution.

The following persons shall be considered students for the purposes of these policies and regulations:

- a person currently enrolled at UT Arlington
- a person who has applied for admission or readmission to an institution of the UT System or has been accepted for admission or readmission to UT Arlington
- a person who has been enrolled at an institution of the UT System in a prior of the UT System in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows
- a person who engaged in prohibited conduct at a time when he or she met the criteria of 1, 2, or 3 immediately above (purpose and scope)

VII. UT Arlington Officer(s) Responsible for Policy

Office of Student Conduct

VIII. Dates Approved or Amended

Approved July 10, 2012

Amended January 29, 2013

Amended March 2, 2015

IX. Contact Information

All questions concerning this policy should be directed to the Office of Student Conduct; conduct@uta.edu [<mailto:conduct@uta.edu>] ; 817-272-2354.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Wayne M. Klocke, Independent Administrator of the Estate of Thomas Klocke

(b) County of Residence of First Listed Plaintiff Tarrant (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Kenneth B. Chaiken, Chaiken & Chaiken, P.C., 5801 Tennyson Pkwy. #440, Plano, TX 75024, 214-265-0250; Jonathan T. Suder, Friedman, Suder & Cooke, 604 E. 4th St. #200, Ft. Worth, TX 76102, 817-334-0400

DEFENDANTS

The University of Texas at Arlington Nicholas Matthew Watson

County of Residence of First Listed Defendant Tarrant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- U.S. Government Plaintiff, U.S. Government Defendant, Federal Question, Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff and Defendant citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- Original Proceeding, Removed from State Court, Remanded from Appellate Court, Reinstated or Reopened, Transferred from Another District, Multidistrict Litigation - Transfer, Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1391. Brief description of cause: Plaintiff's decedent discriminated against by Def. UT Arlington in violation of Title IX and defamed by Def. Watson.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ Not specified. CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 04/04/2017 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE