**Protection of Minors and UPPS No. 01.04.41**

**Reporting Abuse Policy Issue No. 3**

**Effective Date: 03/03/2023**

**Next Review Date: 07/01/2027 (E4Y)**

**Sr. Reviewer: Associate Vice President for Institutional Compliance and Chief Compliance Officer**

**POLICY STATEMENT**

*Texas State University is committed to ensuring a safe and supportive environment for everyone on our campuses and recognizes its obligations to ensure the safety and well-being of minor children who are on the university campuses or facilities, participating in university-sponsored events, or events which involve university-affiliated individuals.*

**01. BACKGROUND INFORMATION**

* 1. This document establishes policy and procedures for operation of any activity which includes non-enrolled minors, and applies to all Texas State University faculty, staff, student workers, third-party vendors and their employees affiliated with Texas State, and all volunteers working with Texas State who have direct contact with minors.
	2. Texas State will comply with the [Texas Education Code (Section 51.976 and Section 51.9761)](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm); Training and Examination Program for Employees of Campus Programs for Minors on Warning Signs of Sexual Abuse and Child Molestation and Family Code (Chapter 261); and Child Abuse Reporting and Training.

**02. DEFINITIONS**

02.01 Abuse – includes the following acts or omissions by a person:

1. mental or emotional injury to a minor that results in an observable and material impairment in the minor’s growth, development, or psychological functioning;
2. causing or permitting a minor to be in a situation in which the minor sustains a mental or emotional injury that results in an observable and material impairment in the minor’s growth, development, or psychological functioning;
3. physical injury that results in substantial harm to the minor, or the genuine threat of substantial harm from physical injury to the minor. This includes an injury that is at variance with the history or explanation given and excludes an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the minor to a substantial risk or harm;
4. failure to make a reasonable effort to prevent an action by another person that results in physical injury or substantial harm to the minor;
5. sexual conduct harmful to a minor’s mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of a minor, indecency with a minor, sexual assault, or aggravated sexual assault;
6. failure to make a reasonable effort to prevent sexual conduct harmful to a minor;
7. compelling or encouraging a minor to engage in sexual conduct, including compelling or encouraging the minor to engage in conduct that constitutes an offense of trafficking of persons, prostitution, or compelling prostitution; and
8. causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or recording depicting of the minor if the person knew or should have known that the resulting photograph, film, or depiction of the minor is obscene or pornographic.

02.02 Athletic Sports Camps

Institutional Camp – a camp or clinic operated by a member of the Athletics Department, where the expenses, revenue and insurance are provided by an area within the Athletics Department (e.g., Stutters and Cheer).

External Camp – a camp or clinic operated by a person or entity outside of the Athletics Department.

02.03 Campus Program for Minors at Texas State

a. is operated by or on the campuses or on properties owned by the university, or is offered remotely online;

b. offers recreational, athletic, religious, or educational activities for minors who are not enrolled at the institution; or

c. may be a day camp or an overnight camp where the minor temporarily resides in on-campus housing for one or more nights.

02.04 Day Camp – any camp that primarily operates during any portion of the day between 7 a.m. and 10 p.m.

02.05 Designated Individual – any person, whether employed, an independent contractor, or volunteer who has direct contact with a minor. Examples of designated individuals include, but are not limited to, faculty, staff, student workers (student assistants including work-study), graduate, teaching or research assistants, volunteers, contracted employees, and anyone affiliated with third-party vendors providing in-person or remote activities for minors.

02.06 Direct Contact with a Minor – includes in-person visits, physical touching, talking on the phone or sending messages, written communication such as letters or notes, online instructions and activities, or taking any action which furthers a relationship, such as buying presents. It excludes an individual who is a student enrolled at the institution or a faculty or staff member whose contact with a minor is limited to a single class or short duration.

02.07 Laboratory – any space used for scientific or educational activities that

may involve hazardous materials, hazardous situations or hazardous equipment including teaching laboratories, research laboratories, academic shops, academic studios, academic foundries, makerspaces, or field sites.

02.08 Minor – a person under 18 years of age who is not and has not been married. If the person under the age of 18 is or has ever been married, the person is not considered a minor and a statement from the minor is the determining evidence. Individuals who are currently enrolled at Texas State and who are under the age of 18 are not included in this definition.

02.09 Neglect

1. the leaving of a minor in a situation where the person knows or should know that the minor would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the minor, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the minor; or
2. the following acts or omissions by a person who knows or should know that:
3. placing a minor in or failing to remove a minor from a situation that a reasonable person would realize requires judgment or actions beyond the minor’s level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the minor;
4. failing to seek, obtain, or follow through with medical care for a minor, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or psychological functioning of the minor;
5. failing to provide a minor with food, clothing, or shelter necessary to sustain the life or health of the minor;
6. placing a minor in or failing to remove the minor from a situation in which the minor would be exposed to a substantial risk of sexual conduct harmful to the minor;
7. placing a minor in or failing to remove the minor from a situation in which the minor would be exposed to acts or omissions that constitute abuse committed against another minor; and
8. permitting (by the person responsible for a minor’s care, custody, or welfare) the minor to return to the minor’s home without arranging for the necessary care for the minor after the minor has been absent from the home for any reason.

02.10 Non-Athletic Camps – any camp that offers recreational, religious, or

educational activities that begins and ends between the months of May and August

1. is a day camp or an overnight camp where the minor temporarily resides in on-campus housing;
2. is operated by or on the campuses or properties owned by the university, or is offered remotely online; and
3. is offered by internal departments, or external entities who lease facility space from the university.

02.11 Ongoing Youth Program – any program that offers recreational, religious, or educational activities, that operates during the long semesters of the academic year

1. is operated by or on the campuses or properties owned by the university, or is offered remotely online; and
2. primarily includes recurring activities over the course of several weeks or months during the fall or spring semesters.

02.12 Participant – a minor who attends a Texas State program.

02.13 Person Responsible for a Minor’s Care, Custody, or Welfare – includes:

1. a parent, guardian, managing or possessory conservator, or a foster parent of the minor;
2. a member of the minor’s family or household, as defined by [Texas Family Code, Chapter 71](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.71.htm);
3. a person with whom the minor’s parents cohabits;
4. school personnel or a volunteer at the minor’s school; and
5. personnel or a volunteer at a public or private minor-care facility that provides services for the minor or at a public or private residential institution or facility where the minor resides.

02.14 Professional – an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with minors. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or healthcare facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers ([Family Code, Chapter 261.101(b)](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm)).

02.15 Program Operator – a person who owns, operates, controls, or supervises a campus program for minors, regardless of profit.

02.16 Remote-Delivery Camp or Program – any academic program presented in-part, or exclusively in a virtual format.

02.17 Report – a report that alleged or suspected abuse of a minor has occurred or may occur.

02.18 Visiting Groups – outside groups engaged in educational or outreach

programs involving non-enrolled minors on Texas State campuses.

**03. PROCEDURES FOR REPORTING ABUSE OR NEGLECT OF A MINOR**

03.01 All Texas State employees, third-party vendors, or volunteers who have direct contact with minors have:

1. an obligation to report actual or suspected abuse or neglect of a minor; or cause to believe that an adult was a victim of abuse or neglect and determines, in good faith, that disclosure of the information is necessary to protect the health and safety of another minor. A person may not delegate or rely on another person to make the report.

03.02 Any individual who witnesses a minor in imminent danger or a crime against a minor in progress should immediately call 911.

03.03 A report must be made within 48 hours of the initial suspicion of abuse or neglect of a minor to:

1. the University Police Department at 512.245.2805;
2. the Title IX coordinator at 512.245.2539;
3. the Clery Act coordinator at 512.245.2167; or
4. Texas Department of Family and Protective Services (DFPS) at [www.dfps.state.tx.us/](http://www.dfps.state.tx.us/) or 1.800.252.5400.

03.04 A person making a report shall include, if known:

1. the name and address of the minor;
2. the name and address of the person responsible for the care, custody, or welfare of the minor; and
3. any other pertinent information concerning the alleged or suspected abuse or neglect.

03.05 The requirement to report applies without exception to an individual whose personal communications may otherwise be privileged.

03.06 Failure of a person to comply with the reporting requirements of this policy and state law is a violation of state criminal law, and the person may be subject to disciplinary action, up to and including termination or expulsion.

**04. PROCEDURES FOR CHILD PROTECTION TRAINING**

* 1. Training and certification required to be completed by faculty and staff and all designated individuals:
1. completion of a module on reporting abuse of a minor and neglect through certified state training program ([Child Protection Training](https://sa.txstate.edu/childprotection/)) in advance of the start of the event. This training is required on an annual basis.
2. Training will include prevention techniques for and the recognition of symptoms of sexual, physical, emotional, or medical abuse and neglect of minors, techniques for reducing a minor’s risk of sexual abuse or other maltreatment, and the requirements and procedures for reporting suspected occurrences of abuse and neglect.

c. Annual Criminal Background Checks – The criminal background check will be conducted through Human Resources upon completion of the Child Protection Training. The department or third-party vendor is responsible for paying for the criminal background check. Completion of the background check is an annual requirement.

04.02 Additional requirements to be completed by designated individuals:

1. The program operator must certify with the appropriate university designee that they are solely responsible for ensuring full compliance with the requirements of [Texas Education Code, Section 51.976](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm) before the first day of the camp.

**05. PROCEDURES FOR ALL CAMP, YOUTH PROGRAMS, OR LABORATORY EVENTS WITH MINORS IN ATTENDANCE**

05.01 Program operators, in accordance with enacted legislation by the State of Texas ([Texas Education Code, Section 51.976](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm)), need to ensure that all designated individuals have undergone an annual criminal background check and completed a certified training program on child abuse and molestation awareness.

05.02 The program operator must submit the staff and volunteer roster and the list of attendees to the appropriate designated individual on campus seven business days prior to allowing the camp to utilize campus facilities.

 Designated individuals:

* 1. Overnight Camps with Minors Who Reside in On-Campus Housing – coordinator, housing camps and conferences, or designee;
1. Athletic Sports Camps and Instructional Clinics – associate athletic director for Compliance, or designee; and
2. Non-Athletic Camps, Labs, and Ongoing Youth Programs – associate vice president for Academic Success (AVPAS), or designee.

05.03 The program operator is responsible for ensuring that campus emergency procedures are followed in the event of an emergency.

05.04 All minors who participate in non-athletic camps, labs, and ongoing youth programs, must have a [Participant Release of Liability for Minors](https://gato-docs.its.txst.edu/jcr%3A7adbd1bf-3bb0-4bc4-8518-8bd9588fca4f/Participation%20Release%20and%20Indemnity%20-%20MINORS%20-%20Updated%20Sept.%202020.pdf) and [Authorization for Medical Treatment](https://docs.gato.txst.edu/660583/ENGLISH%20-%20TXST%20Authorization%20for%20Medical%20Treatment%20For%20Minors.pdf) form signed by their parent or guardian prior to participating in program activities. All required forms must be submitted to the office of the AVPAS.

**06. ADDITIONAL PROCEDURES FOR ATHLETIC SPORTS CAMPS AND INSTRUCTIONAL CLINICS**

06.01 See [A/PPS No. 08.02, Camps and Clinics](https://policies.txstate.edu/division-policies/athletics/08-02.html) for more information on Athletic sports camps and instructional clinics.

**07. ADDITIONAL PROCEDURES FOR NON-ATHLETIC CAMPS AND ONGOING YOUTH PROGRAMS**

07.01 All program operators must provide a finalized, alphabetized list of participants, along with all associated [Participant Release of Liability for Minors](https://gato-docs.its.txstate.edu/jcr%3A7adbd1bf-3bb0-4bc4-8518-8bd9588fca4f/Participation%20Release%20and%20Indemnity%20-%20MINORS%20-%20Updated%20Sept.%202020.pdf) and [Authorization of Medical Treatment forms](https://docs.gato.txst.edu/660583/ENGLISH%20-%20TXST%20Authorization%20for%20Medical%20Treatment%20For%20Minors.pdf), to the office of the AVPAS no later than the first day of the camp or activity. Non-Texas State employees who work or volunteer at the camp must complete the Release of Liability for Adults form.

07.02 The program operator must ensure a Facilities Use Agreement is submitted to the appropriate office by the second week in April for summer camps, labs, or programs.

 External camp rentals will be charged a facility rental fee based on fair market value. Additional fees may be charged as part of the facility rental agreement based on requests for extra amenities or usages.

 Liability insurance coverage is required for all external camps that are not a state entity covered by the [Texas Tort Claims Act](https://statutes.capitol.texas.gov/Docs/CP/htm/CP.101.htm). External camps will provide Texas State with evidence of such insurance at least one week before the event and at any other time that Texas State may request. Liability insurance must include and maintain during the event:

a. public liability and property damage insurance in at least the minimum amounts of $1,000,000 per occurrence and $3,000,000 aggregate;

b. commercial automobile liability insurance, covering all owned, non-owned, or hired automobiles in at least the minimum amounts of $1,000,000;

c. workers’ compensation insurance coverage for each of the organization’s employees involved in the event. The organization must meet the statutory requirements of the [Texas Labor Code, 401.011(44)](https://statutes.capitol.texas.gov/Docs/LA/htm/LA.401.htm); and

d. the insurance shall include both Texas State and the Texas State University System as an additional named insured.

 Institutional camps are not charged a facility rental fee.

**08. ADDITIONAL PROCEDURES FOR LABORATORY ACTIVITIES INVOLVING MINORS**

08.01 Faculty and staff who plan to have minors participate in laboratory activities are required to notify the chair of their department ten business days prior to the start of the activity. Department chair will notify the office of the AVPAS and Environmental, Health, Safety, Risk and Emergency Management (EHSREM) of the faculty and staff members who intend to work directly with minors. Faculty and staff with minors participating in laboratory activities will serve as program operators and are responsible for the Child Protection Training compliance. The AVPAS, or designee, will ensure all pertinent guidelines are followed and documents have been completed and filed with the appropriate entities.

08.02 Faculty and staff must review and comply with requirements for allowing minors into university laboratories and complete appropriate documentation outlined in the [Guidelines for Minors in Laboratories](https://www.fss.txst.edu/ehsrm/Minors-in-the-Lab.html) found on the EHSREM website.

08.03 All minors who participate in university laboratory activities, such as research or support roles, must have a [volunteer form](https://gato-docs.its.txstate.edu/jcr%3A91830b82-9bb2-4dd3-b70f-90cd8852cc08/Volunteer%27s%20Release%20Appointment%20Form_6.6.2022%20TAI.docx), [Participant Release of Liability for Minors](https://gato-docs.its.txst.edu/jcr%3A7adbd1bf-3bb0-4bc4-8518-8bd9588fca4f/Participation%20Release%20and%20Indemnity%20-%20MINORS%20-%20Updated%20Sept.%202020.pdf) and Authorization for Medical Treatment form signed by their parent or guardian prior to the first day of laboratory activities. All required forms must be submitted to the department chair or associate dean, who will then forward to the office of the AVPAS.

08.04 All adults (18 years or older) working in laboratories who are not currently employed by the university nor currently enrolled as a student at Texas State must also fill out a [liability waiver](https://gato-docs.its.txstate.edu/jcr%3A6786c32b-e24e-400d-bc89-e58fee873457/Participation%20Release%20and%20Indemnity%20-%20ADULT%20-%20Updated%20Sept.%202020%20.pdf) and [volunteer form](https://gato-docs.its.txstate.edu/jcr%3A91830b82-9bb2-4dd3-b70f-90cd8852cc08/Volunteer%27s%20Release%20Appointment%20Form_6.6.2022%20TAI.docx).

**09. MEDICATION ADMINISTRATION**

09.01 All program operators must obtain written authorization for the administration of any medication, including prescription and over-the-counter, to a program participant from the participant’s parent or guardian by completing the [Parent/Guardian Authorization, Waiver, & Consent For Over-the-Counter Medication Administration form](https://docs.gato.txst.edu/660580/ENGLISH%20-%20Guardian%20Authorization%20Waiver%20Consent%20For%20Over-the-Counter%20Medication%20Administration.pdf) or the [Parent/Guardian Authorization, Waiver, & Consent for Self-Administration of Prescription Medication – Minors on Campus form](https://docs.gato.txst.edu/660581/ENGLISH%20-%20Guardian%20Authorization%20Waiver%20Consent%20for%20Self-Administration%20of%20Prescription%20Medication.pdf). Medication administration authorizations expire at the end of the program. Medications must be in their original container and administered according to the prescriber instructions on the label. Any variation from prescription label instructions must be authorized in writing by the prescriber.

09.02 Program staff may administer over-the-counter medications with parental or guardian written authorization. Prescription medications that cannot be self-administered may not be administered by program staff. Special arrangements can be made with the Texas State Student Health Center for administration of prescription medications during normal hours of business. Program participants will incur additional charges for this service.

09.03 When a program staff member administers the medication, they must record the full name of the program participant, the name of medication, date and time the medication was given, the dose administered, and full name of staff or volunteer that administered the medication on a [Medication Administration Log](https://gato-docs.its.txst.edu/jcr%3Ab93a671c-bea5-41ff-bfcc-b6b11910728f/Medication%20Administration%20Log.pdf). A separate [Medication Administration Log](https://gato-docs.its.txst.edu/jcr%3Ab93a671c-bea5-41ff-bfcc-b6b11910728f/Medication%20Administration%20Log.pdf) must be kept for each program participant.

09.04 If medication will be dispensed by the program staff, all medication must be stored out of reach of all participants in a locked cabinet, drawer, or other area that can be accessed only by authorized staff. Medications requiring storage in a refrigerator must be stored in a marked and closed container separate from food or other items in the refrigerator. Access to the refrigerator must be restricted to authorized staff only.

09.05 Medication must be returned to the parent or guardian of the program participant after the end of the program or upon participant dismissal from the program.

09.06 All medical information collected is strictly confidential and should be safeguarded. Forms and logs containing medical information should be stored in a locked cabinet, drawer, or other area that can be accessed only by authorized staff. Forms and logs with medical information must be retained in secure storage for three years after the end of the program by the program operator, or designee. This information shall be properly disposed of after the retention period expires.

09.07 If program participants become ill, they will have the opportunity to return home (after consulting with their parents or guardians and the program operator).

09.08 If a program participant, guest, or student who is not employed by Texas State is injured while on-campus, a designated individual from the camp, lab, or program must complete an [EHSRM Incident Report](https://www.fss.txst.edu/ehsrm/forms/Incident-Report.html).

**10. PROCEDURES FOR CAMP REPORTS AND RETENTION OF RECORDS**

10.01 The Department of Housing and Residential Life conference coordinator, the associate athletic director for Compliance, and the AVPAS will submit reports containing a list of all residential camps, remote camps, and day camps to the associate vice president for Institutional Compliance and Ethics and Chief Compliance Officer by the end of the fiscal year.

10.02 Reports will be retained by the associate vice president for Institutional Compliance and Ethics and Chief Compliance Officer for two fiscal years.

**11. CONFIDENTIALITY, IMMUNITY, AND RETALIATION**

11.01 Due to the sensitive nature of this type of report, it is important to maintain the highest level of confidentiality and professionalism.

11.02 A person acting in good faith who reports or assists in the investigation of a report of alleged or suspected child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.

11.03 Filing a false report is a violation of state criminal law and may subject faculty, staff, and students to disciplinary action, up to and including termination or expulsion.

11.04 Texas State may not retaliate against a person who in good faith reports child abuse or neglect to their supervisor, an administrator of the facility where the person is employed, a state regulatory agency, or a law enforcement agency, or initiates or cooperates with an investigation or proceeding by a government entity relating to allegation of child abuse or neglect.

**12. FAILURE TO COMPLY WITH POLICY**

12.01Failure to comply with policy, including any departmental or camp specific arrangements which are put in place under it, may lead to loss of camp hosting privileges and disciplinary action being taken.

**13. REVIEWERS OF THIS UPPS**

13.01 Reviewers of this UPPS include the following:

Position Date

Associate Vice President, Institutional July 1 E3Y

Compliance and Chief Compliance

Officer

Associate Vice President for Academic July 1 E3Y

Success and Dean of University

College

Executive Director, Housing and Residential July 1 E3Y

Life

Director, Athletics July 1 E3Y

Director, Environmental, Health, July 1 E3Y

Safety, Risk and Emergency Management

**14. CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Associate Vice President for Institutional Compliance and Chief Compliance Officer; senior reviewer of this UPPS

President’s Chief of Staff

President