



## Texas Forensic Association

### Constitutional Amendment Form

*The following must be provided before your proposal will be accepted by the Executive Committee.*

**Name:** Kirsten Nash (serving as part of the Ad Hoc Code of Conduct Committee)

**School:** Hendrickson

**Region:** 3

**Email address:** kirsten.nash@pfisd.net

**Rationale for Amendment:** This amendment makes the constitution consistent with recommendations from the Ad Hoc Code of Conduct Committee

**Section of the Constitution where Change occurs:**

- \_\_\_\_\_ Constitution
- \_\_\_\_\_ ByLaws
- X  Code of Professional Standards
- \_\_\_\_\_ Standing Rules: Competition Event Guide
- \_\_\_\_\_ Standing Rules: IQT Operations Manual
- \_\_\_\_\_ Standing Rules: State Tournament Operations Manual

**Page number of change:** \_\_\_\_\_17-18\_\_\_\_\_

**Select One of the Following:**    Add Language    Delete Language    Amend Language

**Implementation Time Frame:** Pilot now with immediate effect (2020-2021 school year)

**Proposed Change(s)** *(List the change/add here. Changes should include any language you are replacing from the existing constitution along with the proposed new language.)*

Page 17

**Change Code of Professional Standards**

- **Delete #8 and #9** (Both are more fully explained and defined within the Code of Conduct document - the Code actually provides more protections, definitions and punishments for violations)
- **Delete #10 and #11** (Both are more fully explained and defined within the Code of Conduct document - provisions include those already listed in 10/11, along with additional provisions now that we are including students, consultants and judges in the Code)
- **Renumber #12 to now be #8**

New wording would be:

Code of Professional Conduct

(keep items 1-7, 12(renamed to 8))

**Insert NEW Code of Conduct** (attached) Insert on a new page.

## **CODE OF CONDUCT**

This Code of Conduct seeks to foster and embrace a culture of respect, whether in the argumentative heat of a debate round or in the myriad of professional and personal interactions that come together to create the experience of participation as a part of the Texas Forensic Association. Competitive forensics can and must be frank, thorough, and based on dissent. At the same time, respect for all participants in the process is an irreducible minimum requirement. Respect is not incompatible with vigorous or even impassioned advocacy.

This Code has been prepared by the TFA Code of Conduct Ad Hoc Committee in consultation with the National Debate Tournament Code of Conduct and the American Forensic Association Code of Conduct, and adopted by the Executive Council of the Texas Forensic Association (and approved by the body - **INSERT DATE HERE**), and will be in effect for the year 2020 and all years subsequent until explicitly replaced, amended, or superseded by another document.

All competitors, coaches, judges, staff, and all other individuals present at TFA Individual Qualifying Tournaments and the TFA State Tournament, or participating in activities associated with TFA, in any capacity whatsoever, are expected to know and are required to abide by this Code.

Coaches and program directors are expected to discuss the Code of Conduct with their students, parents/guardians, consultants, and any judges, and are expected to take all reasonable and necessary actions to ensure compliance by participants who are affiliated with their respective schools. By belonging to TFA or participating in activities sanctioned by TFA, each individual shall be deemed to have agreed to behave in accordance with this Code of Conduct. For the purposes of this document, "Code of Conduct" and "Policy" are used interchangeably.

## **POLICY**

All persons participating in TFA sanctioned tournaments, or in any activity associated with TFA, shall at all times and in all circumstances conduct themselves with respect for all other participants, during rounds and at all other times.

No participant shall suffer or cause discrimination or harassment during the course of, or in connection with, TFA on the basis of any protected characteristic. Protected characteristics include age, color, religion, disability, race, ethnicity, national origin, sex, gender, gender identity, sexual orientation, marital status, veteran's status, or any other basis prohibited by any applicable law, regulation, or ordinance.

Violence or the threat of violence, whether or not motivated in whole or in part by any protected characteristic, has no place whatsoever in academic competition. Bullying and intimidation, whether or not motivated in whole or in part by any protected characteristic, has no place whatsoever in academic debate. Any such practice is absolutely prohibited at, or in connection with, any TFA event or competition.

In applying these principles, TFA Executive Council (EC) shall consistently and expediently respond to alleged violations.

## DISCUSSION, DEFINITIONS, AND PROCEDURES

### 1. Legal Background

#### (a) References in Academic Speech and Debate:

Academic speech and debate is largely self-regulating, and the rules and guidelines governing competition in the activity are themselves often open to discussion and modification in the course of individual competitive rounds. Notwithstanding this particular theoretical freedom, the speech and debate community remains part of a larger world of academia, and is thus, subject to certain practical and legal constraints. Virtually all K-12 institutions and colleges and their sponsored activities are, for example, subject to federal law prohibiting discrimination or harassment on the basis of sex (Title IX of the Education Act Amendments of 1972), color, race, national origin (Title VI of the Civil Rights Act of 1964), disability (Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act), and other protected classifications. Other federal, state, and local laws and ordinances impose similar requirements on activities occurring in schools or other places of public accommodation.

Private bodies, groups, or entities affiliated in one manner or the other with TFA, as well as all individual educational institutions, have their own policies, which may also govern the conduct of certain participants in TFA.

This Policy supplements, and does not supplant, any other applicable policy. It is incumbent upon the participants in TFA to ensure full and enthusiastic compliance with the anti-discrimination and anti-harassment goals of these provisions, as well as any additional requirements imposed by their individual institutions.

#### (b) All Participants are Protected:

Existing federal and state laws and local ordinances, institutional and organizational policies, and this Code of Conduct, protect everyone. The Policy prohibits discrimination or harassment based on a protected characteristic no matter who is being harassed, and no matter who is doing the harassing. Harassment based on a protected characteristic violates this policy even if the harasser shares the same characteristic. Men may not harass men based on their gender; African-Americans may not harass African-Americans based on their race.

#### (c) Policy against Violence and Threats:

This Policy's prohibition on violence or threats of violence is independent from any consideration of protected category, or whether the threat or violent conduct rises to the level of "harassment." The prohibition on violence or threats of violence is unconditional. A "threat of violence" is either an explicit threat of violence, or any action, verbal or physical, that creates in the target or other observer a reasonable perception that violence is, or may be, imminent or intended.

#### (d) No legal rights created:

This Policy is not intended to create any legal right, or to create any cause of action in favor of

or against any person. This Policy does not attempt to define any term or conduct for purposes of any law, but rather only for the purposes of the Policy itself. This is an internal policy of the Texas Forensic Association.

(e) No legal rights removed:

(i) Coaches

(1) Mandatory reporting

This Policy is not intended to circumvent, replace, or otherwise serve as a substitute to mandatory reporting, required by law, of teachers, consultants, and/or district employees.

(2) District / Team policies and punishments

This Policy is not intended to circumvent, replace, or otherwise serve as a substitute for institutional policies and handbooks, either of individual teams or school district policies. Punishments rendered by TFA for violations of this Policy apply to TFA sanctioned activities and corollary activities. Individual teams and school districts may have punishments beyond those laid out in this Policy.

(ii) Victims' Rights

This Policy is not intended to remove or eliminate rights held by victims of the offenses described herein. Per state and federal law, victims are allowed to pursue all remedies and legal recourse afforded to them by their institution, their school district, and the laws governing their jurisdiction or the State of Texas.

## 2. Harassment

For purposes of this policy, the term "harassment" means any act or course of conduct that:

(a) is predicated on or derogatory of a protected classification, such as sex, race, or national origin;

(b) is offensive to the recipient of the conduct, and would be offensive to a reasonable person in the same situation or circumstances as the recipient of the conduct;

(c) is severe in nature or pervasive in extent, or both, under the circumstances, and

(d) interferes materially with an individual's participation in TFA or any associated activity, or creates an environment that is intimidating or hostile, or which substantially disrupts or interferes with the orderly operation of TFA or the rights of any person to participate in or benefit from the activities of TFA.

(e) Such conduct may include threats; gestures; making remarks which are by common usage lewd, obscene, or may expose a person to hatred; or any other conduct which is sufficiently severe, pervasive or persistent so as to interfere with or limit a person's ability to participate in,

or benefit from, the services, activities, or opportunities offered by TFA.

(f) Such conduct may include both in person and online communication and behaviors both during and outside of TFA sanctioned activities, if those communications substantially disrupt or interfere with the orderly operation of TFA or the rights of any person to participate in or benefit from the activities of TFA.

### 3. Examples of harassment:

*Even a single instance of such conduct may be sufficiently severe, or pervasive, to violate this Policy. This list is not intended to be an exhaustive list of all forms of harassment, other examples that meet the criteria established in section 3 are also covered under this section.*

(a) A judge states or implies that the judge's assessment of a round may be affected by the grant of sexual favors from a competitor or some other person affiliated with a speech and debate team.

(b) A participant engages in intentional, unwelcome, and offensive touching of another participant, based at least in part on sex. Such an offensive touching may, or may not, involve contact with sexually-sensitive areas of the body.

(c) A participant utilizes derogatory, demeaning, or degrading language to describe another participant, based at least in part on a protected classification including labeling another participant. Demeaning or degrading language that does not use lewd or prohibited words can also constitute harassment; examples would include stereotypical references that may imply derogation or statements that play on stereotypes or group prejudices.

(d) A participant exhibits obscenity, sexually explicit images or other imagery, that is intentionally derogatory, demeaning, or degrading, based at least in part on a protected classification with the intent to incite fear or harass.

(e) A participant inflicts mental or emotional distress upon a person through a course of conduct involving abuse or disparagement of that person's race, religion, sex, color, sexual orientation, disability, national origin, or other protected characteristic.

(f) A participant engages in conduct that is abusive or disparaging of any race, gender, sexual orientation, or other protected characteristic, even if that conduct is not directed toward a particular individual sharing that characteristic.

### 4. Violence

Violence and threats of violence are absolutely prohibited. A "threat of violence" is either an explicit threat of violence, or any action, oral or physical, that creates in the target or another observer a reasonable perception that violence is, or may be, imminent or intended. Participants must not engage in behavior that threatens the safety, security, or functioning of TFA; the safety and security of other participants, or the safety and security of others. Orderly conduct is required of all participants at any activity associated with TFA.

(a) Participants, either individually or as a group, shall neither cause violence nor threaten

violence. No participant shall commit any assault, battery, unwelcome bodily contact or touching, or the impeding or blocking of safe movement.

(b) This policy includes the prohibition of bullying. "Bullying" includes physical intimidation, taunting, name-calling, or insults or the making of false or derogatory statements about another. Such conduct may include both in person and online communication and behaviors both during and outside of TFA sanctioned activities.

## 5. Positions of Power

Coaches, program directors, judges, consultants, volunteers and other individuals who may be (or who may reasonably be perceived to be) in a position to exert power or undue influence over other participants, and particularly over students, should be particularly aware of their responsibilities to avoid harassment or discriminatory actions.

(a) Judges, consultants, and assistants, like coaches and program directors, should consider themselves to be educators who will lead by deed as well as by word.

(b) Coaches, program directors, judges, consultants, volunteers, and assistants should scrupulously avoid using their position, or their perceived position, as leverage either to engage in inappropriate exclusion of individuals based on a protected classification (for example, excluding individuals from activities based on national origin) or to engage in inappropriate relationships.

(c) Coaches, program directors, judges, consultants, volunteers, and assistants must ensure their conduct complies with this Policy during all TFA activities, including situations that may generate inherent tension, such as during a judge's explanation of their reason for decision in a particular round.

(d) Tournament directors, within the venue of their particular tournament, have explicit power as defined in the TFA Constitution. However, they must act to ensure that their conduct in exercising these powers does not violate this Policy.

(e) TFA EC members and committee members, both elected and appointed, have explicit power as defined in the TFA Constitution. However, they must act to ensure that their conduct in exercising these powers does not violate this Policy.

## 6. Disability Accommodations

Any individual who believes that an accommodation for a disability, or an accommodation for a religious belief or preference, would be appropriate and reasonable in connection with that individual's participation in TFA, is encouraged to contact the IQT tournament host as far in advance of competition as possible. Individuals who believe their disabilities or religious beliefs are not being accommodated appropriately by tournament hosts should contact the TFA EC so that they can engage in an iterative process to determine the need for and character of any reasonable accommodation and assess individual school's ability to provide requested accommodations. TFA takes direction from TEA guidelines on reasonable accommodations for disabilities within the competitive space.

## 7. Behavioral Context

Harassment, discrimination, threats of violence, or other abuse may occur based on conduct in or outside of round. For example, harassment may occur at tournament sites, at tournament hotels, or at an outside activity associated or affiliated with TFA sanctioned functions, such as a tournament meal, committee meeting, or award ceremonies. Harassment may also occur during a debate, speech, or cross-examination, or during preparation, waiting, or decisional time in a round. Harassment, discrimination, threats of violence, or other abuse may occur within individual team activities, during practice, drills, or in the classroom as well.

(a) Intentional and offensive verbal or physical conduct that is intended to constitute a part of relevant argumentation during a debate round can constitute harassment. The TFA EC is aware that scrupulous attention must be paid to principles of free speech and open argumentation. However, by the adoption of this policy, the TFA EC signals their conclusion that inappropriate harassment or threatening conduct should never occur in TFA sanctioned activities, even where it is intended as part of an argument made during a speech or debate round. This conclusion also is consistent with governing legal principles.

(b) Intentional and offensive conduct that occurs during the debate round, yet outside the context of argumentation, of course remains harassment. For example, use of a denigrating term to refer to an opponent, judge, or class of persons – even during a speech – generally serves no legitimate argumentative purpose and may constitute harassment. Intentional and offensive touching or the making of personal threats will never serve any legitimate argumentative purpose, and may also constitute criminal battery or assault.

(c) This Policy governs the conduct of participants of TFA sanctioned activities and all activities associated with TFA. The Code of Conduct applies to interactions at tournament meetings, meals, announcements, and at the tournament site. This Policy also governs the conduct of participants at the NDT in other pre- and post-tournament activities arising from participation in TFA sanctioned activities, such as discussions of results, arguments, individuals, ballots, and the like by participants in social media.

(d) The overarching aim of academic debate is to teach, exhibit, and enhance reasoning skills, research abilities, and persuasive modalities. The competitive aim of speech and debate remains to persuade the judge as to which team did the better job of debating, and not to shock or intimidate one's opponents, the judge, or an audience. Conduct that "interferes materially with an individual's participation in TFA sanctioned activities, or creates an environment that is intimidating or hostile," does not serve any legitimate purpose of the Texas Forensic Association even if it purports to be part of an argument.

(e) This policy is not intended to stifle or limit student voices when exposing instances of harassment, discrimination, threats of violence, or other abuse that occur within their lives. Performances designed to raise awareness and call attention to these instances should not be considered violations of the Policy, unless those performances are given with the expressed intent to intimidate or harass others.

## 8. Procedures

(a) The TFA EC (EC) shall be responsible for enforcement of this policy. As deemed necessary, the EC may task the Professional Relations Committee (PRC) with arbitration or additional investigation of any charges brought forth. The committee will be regionally balanced and standing at 5 members. In appointing members of the committee, the TFA President shall take into consideration such factors as experience in the activity; maturity of judgment; diversity with respect to demographic factors; representation of large, small, public, and private institutions; any particular expertise required, and resulting recommendations of EC members.

(b) The overarching goal of the Code of Conduct is to reify and uphold acceptable conduct by TFA members and school participants to secure an equitable space for all forms of discourse. TFA will defend its expectations of all contributors to the activity and will stand firm to respond to conduct detrimental to the mission of providing for its students.

(c) It is not the purpose of the Code of Conduct to become another tool to narrow the lens of acceptable discourse. TFA is sensitive to the possibility of this Code as leverage for competitive advantage through the making of unwarranted complaints. The EC will respond to misuse of the Code of Conduct as a tactical tool. Harassment and discrimination are serious matters, and willfully false or frivolous complaints may become another tool of harassment. Unsubstantiated complaints may be subject to the same sanctions as are set forth for harassment or discrimination. This is not to serve as a chilling effect on reporting misconduct among participants. Given the nature of the offense, it is inevitable that some complaints will raise close or narrow issues of fact or interpretation, and there is no desire to deter those complaints, even if it is eventually determined that no violation of this Policy has occurred. Baseless complaints interposed for competitive advantage will, however, be subject to sanctions.

(d) Any challenge or charges regarding an allegation of violation of this Code should be presented in writing to the EC. The EC will have 10 days to notify all parties involved in the matter and initiate investigation into the allegation, including requesting statements or pertinent facts from involved members. The EC may utilize their judgement regarding the seriousness of the offense when determining if the ten-day statute is a valid reason to dismiss a charge. The EC may then make a decision based on the circumstances surrounding each unique situation. Under no circumstances should the EC agree in advance to vote unanimously prior to discussion of issues that are contested. In the event that an accusation involves student competitors, EC communication shall be done via the coach of record with the school/institution.

(e) Any participant in TFA activities and extensions of such activities may offer a formal complaint against violations of the Code of Conduct utilizing the Code of Conduct Violation Report document found on the TFA website. Such complaints will be forwarded to the EC of the TFA. The EC shall promptly conduct an investigation of the matter, with due regard for the privacy of all parties and witnesses to the greatest extent possible consistent with adequate investigation. However, the nature of the conduct may make it impossible to conduct an investigation without apprising witnesses, as well as the accused, of the nature of the accusations. If deemed a violation of professional standards, and necessary for an objective decision, the EC shall refer the complaint to the PRC. The PRC will investigate the complaint,



hear rebuttal by the accused member, and render an opinion on each complaint and may make recommendations regarding punishments. The EC may:

- (i) dismiss the complaint;
- (ii) dismiss the complaint and sanction those making the complaint;
- (iii) sanction the offending party or institution;
- (iv) remove membership from the offending member or institution; and/or deny the school, competitor, or judge/consultant the right to participate in the current year's TFA State Tournament.

(f) When the nature of the violation requires expedient response, Tournament Hosts are allowed to take action as far as, but not limited to removal of the offending party and/or their organization from the host site to ensure the safety of participants. The Tournament Host is required to report any actions related to violations of the Code and to inform complainants of the formal process of reporting violations of the Code to the EC. Tournament Hosts shall use the Code of Conduct Incident Report to report such occurrences to the EC.

(g) All EC members shall be promptly notified of any professional standards hearing. All professional standards hearings shall be by the full EC. Any penalties shall be by a two-thirds vote of the voting members of the EC.

## 9. Sanctions

Sanction shall be a written reprimand addressed to the offending member or institution. Removal of membership shall be immediate, and suspension shall be for at least one school year, but no longer than three years. For sanctions issued to non-members or affiliates with TFA (judges, volunteers, or consultants), suspensions may be longer, up to and including lifetime removal from TFA sanctioned activities. If the complaint involves a member of the EC they may be removed from office. In the rare case of a complaint that appears to raise the possibility of an intentional violation of a criminal law, the Council or its designee shall report those allegations to appropriate authorities.

(a) The nature of sanctions the EC may impose will necessarily vary, based on the type of conduct found to have occurred as well as the role of the individual who has committed the conduct. For example, a sanction against a debater who has engaged in harassment may involve some competitive consequence, whereas a provided judge's or consultant's violation of the Code of Conduct may or may not appropriately be imputed to the team, and in some circumstances may not properly implicate a competitive consequence. The EC may impose some or all of the following sanctions, based on a finding that this Policy has been violated, taking into account the seriousness of the offense, the nature of the injury caused (if any), and all other circumstances the EC may find to be appropriate:

- (i) A confidential letter of admonition or censure to the offender, their coach, director, and/or affiliated school representative (usually appropriate only in the case of a *de minimis* first offense);
- (ii) A letter of admonition or censure to the offender, also provided to the principal/dean of the school with which the offender is associated;
- (iii) The making of a formal complaint to the appropriate governing board of the

offender's school, such as the superintendent, school board, or Title IX Coordinator;

(iv) Limitation of or prohibition on the offender's attendance at future TFA sanctioned events including but not limited to the additional revocation of TFA membership of the associated school or their suspension from TFA activities for a time no longer than three years;

(v) Competitive sanctions at TFA sanctioned events: reduction or elimination of state points from the tournament at which they competed; preclusion from award recognition, or such other competitive consequences as the TFA EC deems appropriate in these circumstances.

(A) In the instance that a violation is handled by a Tournament Host at an IQT, the Host can choose to handle accusations in a way they see fit to ensure protection of students, including, but not limited to removal from competition of the offending competitor, notification of appropriate authorities, and/or removal from school premises (virtual or actual) of the offending competitor. Any actions taken by Tournament Hosts should be included on the Code of Conduct Incident Report.

(vi) The TFA EC may take into consideration whether the proscribed conduct was a first offense or a repeat offense. A record of sanctions, including confidential admonition and censure, shall be kept for purposes of imposing future discipline.

(A) In the instance of judges and consultants not directly associated with a program other than through hiring/volunteering, these records of sanction will be noted on a page dedicated to reporting sanctions hosted on the organization website.

(B) Specifics of the violation will not be noted for confidentiality of the victims and the sanctioned party.

(C) The continued association with the listed parties through continued use of judging or consulting services by TFA members shall itself constitute a violation of this Code of Conduct, and will be subject to complaint and sanction.

(b) A decision of the EC or Tournament Hosts imposing a sanction of dismissal from a tournament under section 8, subparagraph (f), or additional competitive consequences under section 9, subparagraph (a)(v), or declining to impose sanctions, may be appealed to the EC, at the appealing party's option. Only one level of appeal shall be utilized in any case. The determination on appeal shall be unreviewable and final for all purposes. An appeal involving any sanction other than prohibition must be made as soon as practicable, but in any event must be made (for conduct occurring before the elimination rounds) before the announcement of the elimination rounds. The EC and the PRC may provide for the manner in which such appeals may be decided, including delegation of authority for deciding appeals, and including the number of members of such committee who shall constitute a sufficient quorum for action on an appeal.

(c) Nothing in this Policy prevents or restricts individual judges from exercising their independent discretion in awarding or withholding speaker points, ranking, wins or losses, based on inappropriate or offensive behavior that may also violate this Code of Conduct. Individual judges taking action based on their independent discretion as to conduct that may also violate this Policy are encouraged to report any violations or perceived violations to the

EC or Tournament Host. The imposition of individual discretionary consequences by one or more judges shall not preclude the EC from imposing additional sanctions. The EC shall have no authority to reverse or revise any competitive demerit (as to speaker points, rank, win, or loss) imposed by an individual judge.

(d) TFA emphasizes that each and every individual participating in any event associated with the TFA, is deemed to have agreed to this Code of Conduct. Given that predicate, each individual participating in any activity associated with TFA, agrees that any action taken in good faith by TFA Leadership, the EC, the Professional Relations Committee, any witness or participant in any investigation, any complaining party, or any member, employee, attorney, agent, or designee of any of those bodies or persons, pursuant to this Code of Conduct, shall not give rise to any claim or cause of action whatsoever, of any kind, against any person, including specifically but not exclusively any claim for defamation, libel, or slander.

## 10. Retaliation

No retaliation by individuals shall be permitted arising out of the making of, or action taken in connection with, a complaint of a violation of this Policy. Every individual participating in TFA, or in any activity associated with TFA, has the right to make a complaint under this Code of Conduct, without fear of retaliation. Participating in the investigation of a complaint, making a complaint on behalf of another, providing evidence relating to a complaint (regardless of whether the evidence supports or tends not to support the complaint), and all similar activities, are protected against retaliation by any person.

(a) Other than for the filing of a willfully false or frivolous complaint, no adverse action of any kind whatsoever may be taken – by any person – against any person making a complaint under this Code of Conduct, even if the complaint is ultimately determined to be unfounded.

(b) Any unwarranted act of retaliation – by any person – shall itself constitute a violation of this Code of Conduct, and will be subject to the complaint and sanction