



# Rule

## 08.01.01.L1 Civil Rights Complaint and Appeal Process

**First Approved:** September 22, 2004 *(as Rule 34.01.99.L1, Sexual Harassment)*  
**Revised:** October 15, 2014  
August 19, 2016  
August 12, 2019  
August 14, 2020  
**Next Scheduled Review:** August 14, 2025

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### Rule Statement and Reason for Rule

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The Texas A&M University System (System) [Policy 08.01, Civil Rights Protections and Compliance](#) establishes civil rights protections prohibiting discrimination against employees, students, applicants for employment or admission, or the public. [System Regulation 08.01.01, Civil Rights Compliance](#) establishes System-wide standards for the reporting, review, and resolution of civil rights-based compliance that is in conformity with federal and state law.

The purpose of this Rule is to outline the general process for receipt, investigation, and resolution of civil rights complaints alleging discrimination by which the policy and regulation will be enforced at Texas A&M International University (TAMIU).

For the purposes of this Rule, definitions pertaining to civil rights found in [System Regulation 08.01.01, Civil Rights Compliance](#) will be observed. Additional definitions relating to student sexual misconduct can be found in the [TAMIU Student Handbook](#).

This TAMIU Rule is required by [System Regulation 08.01.01, Civil Rights Compliance](#) (hereafter “the Regulation”) that establishes system-wide standards for each member’s receipt and processing of reports, complaints, formal complaints, investigations, adjudication, appeals, and use of informal resolution in cases involving allegations of discrimination based on a protected class including complaints made by employees, students, and/or third parties.

This Rule is intended to supplement the Regulation, as needed.

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## Procedures and Responsibilities

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### 1. RESPONSIBILITIES OF TAMIU

- 1.1 In order to establish an educational and work environment that is conducive to the personal and professional development of each member of the TAMIU community, TAMIU shall be free from all forms of discrimination based on race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation, and gender identity. Conduct constituting such discrimination is strictly prohibited and will result in appropriate sanctions.
- 1.2 The President has the primary responsibility for ensuring compliance with civil rights laws and related System and TAMIU policy. As CEO, the President has other duties and responsibilities outlined in the Regulation.
- 1.3 The President designates Lorissa Cortez, Director of Equal Opportunity and Diversity, 956.326.2857, lorissam.cortez@tamiu.edu, as the Title IX Coordinator for TAMIU. The responsibilities of the Title IX Coordinator are outlined in Section 1.2 of the Regulation. The Title IX Coordinator has other duties and responsibilities outlined in the Regulation.
- 1.4 The President designates the Office of Equal Opportunity and Diversity to receive and investigate all complaints involving a student, employee, or third party respondent(s), in accordance with Section 1.5 of the Regulation.
- 1.5 The Director of Equal Opportunity and Diversity will be primarily responsible for facilitating the training and educational programs to the campus community. At a minimum, all new incoming students will be required to complete an online sexual assault prevention training module and all employees will be required to complete *TrainTraq* training within thirty (30) days of hire and every two (2) years thereafter.

### 2. RESPONSIBILITIES OF EMPLOYEES AND STUDENTS

- 2.1 All employees are responsible for ensuring their work and educational environments are free from discrimination. Any employee who believes that s/he has experienced, observed, or been informed of alleged or suspected discrimination must promptly report the incident to the Director of Equal Opportunity and Diversity, as set forth in Section 4.1 of the Regulation.

- 2.2 An employee who experiences, observes, or becomes aware of information about an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, domestic violence, or stalking based on sex and that is alleged to have been committed by or against a person who was an enrolled student or an employee of TAMIU at the time of the incident, the employee must promptly report the incident to the Director of Equal Opportunity and Diversity or the Deputy Title IX Coordinator. An employee's failure to report alleged or suspected discrimination may result in disciplinary action, including dismissal.
- 2.3 The exception to the reporting requirement applies only to employees who are licensed health care personnel and licensed counselors and who act in such capacity as part of their official employment with TAMIU. Such employees (referred to as "confidential reporters") may keep confidential the identity of a person who complains of alleged or suspected discrimination. These employees must provide information required under the Clery Act and other applicable State and federal laws and regulations. Confidential reporters must promptly report to the Director of Equal Opportunity and Diversity or the Deputy Title IX Coordinator only the type of incident when the incident involves sexual harassment, sexual assault, dating violence, or stalking. Employees who are licensed health care workers or licensed mental health workers but who are not employed by TAMIU in that capacity (e.g., faculty members in psychology, social work, nursing, etc.) are not confidential reporters. Employees who are employed as confidential reporters but become aware of alleged sexual misconduct while operating outside the confidential aspect of their work are not confidential reporters with respect to that particular incident.
- 2.4 Students and third parties are strongly encouraged to promptly report alleged or suspected discrimination to the Director of Equal Opportunity and Diversity.
- 2.5 Parties found to have intentionally made false or materially misleading allegations may be disciplined, up to and including dismissal (if an employee) or expulsion (if a student) from TAMIU.

### **3. CIVIL RIGHTS COMPLAINT PROCESSING**

#### **3.1 Complaints**

- 3.1.1 All complaints filed with the Director of Equal Opportunity and Diversity will be processed in accordance with the timelines provided in the Regulation. Complaints may be submitted via [EthicsPoint](#), [Report It](#), electronic mail, or in person with the Director of Equal Opportunity and Diversity.
- 3.1.2 For every complaint, the Director of Equal Opportunity and Diversity will review the circumstances of the reported conduct to determine whether TAMIU has jurisdiction or disciplinary authority over the respondent or the conduct. At the conclusion of the review, the Director of Equal Opportunity and Diversity will determine the appropriate manner of resolution, which may include informal resolution or the initiation of an investigation.

- 3.1.3 TAMIU designates the following as having authority to institute corrective measures: Deputy Title IX Coordinator, Human Resources, Student Success, Provost and VPAA, and Student Conduct and Community Engagement. An employee with authority to institute corrective measures means an employee with authority to redress harassment for complaints involving only Title IX and sex-based misconduct.
- 3.1.4 Certain resources and supportive measures may be made by the Director of Equal Opportunity and Diversity in an effort to protect the safety and/or well-being of any member of the TAMIU community. TAMIU will maintain as confidential any resources or supportive measures provided, to the extent that maintaining such confidentiality would not impair TAMIU's ability to provide the resources or supportive measures.
- 3.1.5 At any point in the process, a respondent may be subject to removal from TAMIU's education program or activity on an emergency basis, provided that an individualized safety and risk analysis conducted by TAMIU's behavioral assessment and intervention team (BAIT) has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations justifies removal. Upon taking such action, BAIT will immediately notify the student via their TAMIU email account.
- 3.1.6 The student has the opportunity to challenge the removal decision and must notify the Director of Equal Opportunity and Diversity within two (2) business days of imposition of the removal. The removal remains in effect, regardless of a pending review. Within three (3) business days, the Director of Equal Opportunity and Diversity will appoint a hearing authority to review whether or not the removal is warranted. The outcome of this hearing is not subject to appeal and is not a disciplinary action.
- 3.1.7 The Director of Equal Opportunity and Diversity will also review allegations for possible violations of codes of conduct and professional expectations of employees and will forward the matter to the Office of Student Conduct and Community Engagement or the employee's supervisor, as appropriate.

## 3.2 Investigations and Adjudications

Investigations and adjudications are governed by Section 4.2 of the Regulation. The following provisions underscore and supplement the Regulation.

- 3.2.1 Complaints will be investigated and adjudicated under one of the following process, as outlined in the Regulation:
  - (a) Title IX
  - (b) Sex-Based Misconduct
  - (c) All other civil rights complaints

- 3.2.2 In all investigations and all hearings, a presumption will exist that a respondent is not responsible for the allegations until a determination is made at the conclusion of an adjudicatory process.
- 3.2.3 In accordance with [System Regulation 11.99.02, Conduct Requirements for Admissions Applications and Transcripts](#), transcripts of students with pending conduct investigations that could result in expulsion, dismissal, or suspension of one (1) semester or greater will be held until the conduct process is complete. Upon initiation of an investigation, the Director of Equal Opportunity and Diversity will place a hold on the student's record restricting access to transcript requests.
- 3.2.4 The standard used to determine the merits of the allegations will be the preponderance of the evidence (i.e., more likely than not).
- 3.2.5 TAMIU may pursue an investigation and resolution regardless of the existence or outcome of criminal charges. The standards for a violation of criminal law are different from the standards for a violation of the Regulation. As such, criminal investigations and proceedings do not determine the outcome of TAMIU's investigations.
- 3.2.6 In cases where an incident has also been reported to law enforcement, TAMIU will not delay its investigation and adjudication processes to wait for the conclusion of a criminal investigation or proceeding. TAMIU will, however, comply with valid requests by law enforcement for information and/or cooperation in a criminal investigation. As such, TAMIU may need to temporarily delay an investigation while law enforcement is in the process of gathering evidence. In such cases, TAMIU will evaluate the law enforcement agency's request to determine whether and for how long to suspend its investigation.

### 3.3 Decisions

The Director of Equal Opportunity and Diversity will identify a designated administrator to decide the merits of the complaint. The Director of Equal Opportunity and Diversity shall provide the final investigation report to the designated administrator for a decision. The designated administrator will provide the final investigation report and exhibits to the parties. The parties will be provided a pre-hearing conference to review the hearing process, as well as to explore any available options for informal resolution.

### 3.4 Sanctions

TAMIU has established mandatory minimum sanctions for sexual violence and sexual harassment violations by students. Once a finding of responsibility has been established, the designated administrator will decide sanctions under the guidelines set forth in the *Title IX Violations Sanction Matrix*, which is attached as an appendix in this Rule. The designated administrator may also make recommendations for sanctions to the Office of Student Conduct & Community Engagement, Office of Human Resources, or Office of the Provost and VPAA within TAMIU. Sanctions or disciplinary actions will be taken in accordance with [System Policy 12.01, Academic Freedom, Responsibility and Tenure](#); [System Regulation 08.01.01, Civil Rights Compliance](#); [System Regulation 32.02.02, Discipline and Dismissal of Nonfaculty Employees](#). The Director of Equal Opportunity and Diversity shall coordinate with the appropriate administrative authorities to ensure the resolutions, sanctions, disciplinary actions, and/or other necessary actions are implemented.

### 3.5 Appeals

Appeals are governed by Section 4.5 of the Regulation. The appropriate TAMIU administrator to render a decision on the appeal will be an associate vice president, vice president, dean, or president who does not have a conflict of interest in the matter.

### 3.6 Informal Resolution

3.6.1 Cases involving allegations based on sex require the submission of a formal complaint before they may be referred to informal resolution.

3.6.2 Both parties may voluntarily agree to use the informal resolution process instead of or before the formal resolution process but are not required to do so. The informal resolution process is not permitted for complaints of rape, statutory rape, dating violence, domestic violence, or any case in which imminent threats of harm may exist. Anyone who believes that they have been subjected to sexual misconduct may immediately file a formal complaint as described in this Rule. Anyone interested in the informal resolution process, shall contact the Director of Equal Opportunity and Diversity.

3.6.3 Before beginning the informal resolution process, the Director of Equal Opportunity and Diversity must provide both parties full disclosure of the allegations and their options for the formal resolution process. At any time during the informal resolution process, the complainant may elect to discontinue the informal resolution process and file a formal complaint.

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## Related Statutes, Policies, Regulations, or SAP's

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[System Policy 08.01, Civil Rights Protections and Compliance](#)

[System Regulation 08.01.01, Civil Rights Compliance](#)

[System Policy 12.01, Academic Freedom, Responsibility and Tenure](#)

[System Policy 32.01, Employee Complaint and Appeal Procedures](#)

[System Regulation 32.01.01, Complaint and Appeal Process for Faculty Members](#)

[System Regulation 32.01.02, Complaint and Appeal Process for Nonfaculty Employees](#)

[System Regulation 11.99.02, Conduct Requirements for Admissions Applications and Transcripts](#)

[TAMU Student Handbook](#)

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## Appendix

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*Title IX Violations Sanction Matrix*

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## Contact Office

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Office of Compliance (Equal Opportunity and Diversity), 956-326-2857

## Title IX Violations Sanction Matrix

When a student is found in violation of misconduct related to sexual harassment, sexual assault, relationship violence, domestic violence, sexual exploitation, and stalking, the following information should be utilized to formulate appropriate sanctions. When determining a sanction, the administrative review committee will consider the violation itself as well as other factors including the severity of the sexual violence or sexual harassment.

### SANCTIONING CONSIDERATIONS

<p><b>Nature of the Offense</b></p> <ul style="list-style-type: none"> <li>• What are the facts? What happened? What effects has this conduct had on the reporting party?</li> <li>• What additional harm or damage could have occurred?</li> <li>• Does the respondent represent a foreseeable risk of harms to others?</li> </ul>	<p><b>Prior Disciplinary History of Respondent</b></p> <ul style="list-style-type: none"> <li>• Does the respondent have a disciplinary record?</li> <li>• Is it for similar offenses?</li> <li>• Is there evidence of escalating behavior?</li> </ul>
<p><b>Aggravating Factors</b></p> <ul style="list-style-type: none"> <li>• What additional factors argue for a more severe sanction?</li> </ul> <p><i>Aggravating factors include, but are not limited to, a failure to cooperate with the investigation, providing false information, wrongful conduct during the course of the investigations and adjudicatory process (such as violating no-contact orders), use or threat of use of a weapon, and a refusal to accept any culpability even when provided with overwhelming evidence of responsibility.</i></p>	<p><b>Mitigating Factors</b></p> <ul style="list-style-type: none"> <li>• What additional factors argue for a less severe sanction?</li> </ul> <p><i>Mitigating factors include, but are not limited to, a relationship history of the parties, evidence of unintentional behavior, demonstration of responsibility for the conduct in question, demonstration of remorse for one’s behavior, commitment to reforming behavior in the future, adherence to directives, cooperation with the investigation, and reduced risk of recurrence or harm to the broader community.</i></p>
<p>*Note that these factors are not necessarily treated equally and not all will be relevant in each case. The designated administrator must carefully scrutinize what factors are most compelling when determining sanctions.</p>	

### INACTIVE AND ACTIVE SANCTIONS

The questions the administrative review committee must ultimately answer include:

1. Do we believe the student respondent represents a threat to the complainant and/or other members of the campus community?
2. What do we want the respondent to take away from this experience?
3. What learning outcomes do we want to relay to the student respondent?
4. How will the sanctions we impose address any potential threat to the campus community and appropriate learning outcomes?

As a university with a primary mission of educating its community, the creation of learning outcomes from the answers to these questions should drive the imposition of both inactive and active sanctions. In all cases, there must be (except in cases of permanent expulsion) a pairing of inactive and active sanctions that address all desired learning outcomes. All active sanctions should have written reflection components assigned to them that are then included in the student’s conduct record.

<p><b>Inactive Sanctions</b> – official, written university responses to misconduct that generally do not require any action by the respondent. These actions (with the exception of suspension and expulsion) generally do not explicitly serve as teaching tools, but instead provide a baseline for sanctions for any future conduct violations.</p>	<p><b>Warning → Conduct Probation → Suspension → Expulsion</b></p>
<p><b>Active Sanctions</b> – designed to achieve learning outcomes by providing information and/or experiences to deepen understanding of university expectations and reflection on the implication of actions.</p> <ul style="list-style-type: none"> <li style="width: 50%;">- Assessment, treatment, and/or education for alcohol and other drug issues</li> <li style="width: 50%;">- Interviews and education essays</li> <li style="width: 50%;">- Counseling assessment</li> <li style="width: 50%;">- Workshops (health relationships, conflict management, anger management)</li> <li style="width: 50%;">- Guided reflection papers</li> </ul>	



## Title IX Violations Sanction Matrix

The following matrix shall guide the administrative review committee in determining sanctions and provide notice to the TAMIU community of the **minimum** sanctions for an individual who is found responsible under this policy.

CATEGORY	EXAMPLES (include the following but are not limited to)	MINIMUM SANCTIONS
Sex-Based Violence and/or Non-Consensual Penetration ( <b>with</b> predation)	<ul style="list-style-type: none"> <li>• Dating and domestic violence (with a pattern of previous violence or predation)</li> <li>• Penetration (<b>with</b> predation), no matter how slight, of a person’s anus or vagina with any bodily part or object</li> <li>• Performing oral sex on another person without consent or forcing a person to perform oral sex</li> </ul>	<p><u>Inactive Sanction:</u> Expulsion</p> <p><u>Active Sanctions:</u> Restriction from campus grounds and/or events</p>
Sex-Based Violence and/or Non-Consensual Penetration ( <b>without</b> predation)	<ul style="list-style-type: none"> <li>• Dating and domestic violence (without a pattern of previous violence or predation)</li> <li>• Penetration (<b>without</b> predation), no matter how slight, of a person’s anus or vagina with any bodily part or object</li> <li>• Performing oral sex on another person without consent or forcing a person to perform oral sex</li> </ul>	<p><u>Inactive Sanction Range:</u></p> <ul style="list-style-type: none"> <li>• Suspension (at least 1 year)</li> <li>• Expulsion</li> </ul> <p><u>Active Sanctions:</u> As appropriate for learning outcomes (based on investigative finding)</p>
Non-Consensual Sexual Contact	<ul style="list-style-type: none"> <li>• Intentional touching (no matter how slight), without consent, of another person’s breasts, thighs, buttocks, genitals, groin; touching another area if the act of touching is sexual in nature; or knowingly touching a person with one’s own genitals, breasts, or buttocks. Touching may be with any part of one’s body and/or any object.</li> </ul>	<p><u>Inactive Sanction Range:</u></p> <ul style="list-style-type: none"> <li>• Conduct Probation</li> <li>• Suspension</li> <li>• Expulsion</li> </ul> <p><u>Active Sanctions:</u> As appropriate for learning outcomes (based on investigative finding)</p>
Sexual Exploitation	<ul style="list-style-type: none"> <li>• Secretly videotaping and/or broadcasting sexual activity</li> <li>• Purposeful sharing of sexually explicit images, video, or recorded sounds of another person without the person’s full knowledge and consent</li> <li>• Non-consensual voyeurism</li> <li>• Invasion of sexual privacy</li> <li>• Indecent exposure</li> <li>• Knowingly transmitting or exposing someone to a sexually transmitted disease without consent</li> </ul>	<p><u>Inactive Sanction Range:</u></p> <ul style="list-style-type: none"> <li>• Conduct Probation</li> <li>• Suspension</li> <li>• Expulsion</li> </ul> <p><u>Active Sanctions:</u> As appropriate for learning outcomes (based on investigative finding)</p>
Stalking  Harassment or Misconduct Based on Sex	<ul style="list-style-type: none"> <li>• Following or conducting surveillance of another person</li> <li>• Repeated and unsolicited surveillance of another person (e.g., phone calls, text messages, social media posts and messages, emails, gifts)</li> <li>• Repeated and unsolicited visits to residence, business, or classes when having no legitimate and reasonable purpose for the visit other than to make contact with the person</li> <li>• Sexual jokes, gestures, questions, remarks, and teasing</li> <li>• Inappropriate comments on appearance (dress and or body parts)</li> <li>• Unwelcome gifts of a sexual nature</li> <li>• Attempting to coerce, threaten, or intimidate another into dates and/or sexual acts</li> <li>• Sexually explicit visual or audio material outside of one’s own private residence that is considered inappropriate to the environment and not reasonably attached to academic pursuits for which a student is enrolled</li> </ul>	<p><u>Inactive Sanction Range:</u></p> <ul style="list-style-type: none"> <li>• Reprimand</li> <li>• Conduct Probation</li> <li>• Suspension</li> <li>• Expulsion</li> </ul> <p><u>Active Sanctions:</u> As appropriate for learning outcomes (based on investigative finding)</p>