



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
Next Scheduled Review: August 12, 2024

Rule Statement and Reason for Rule

The purpose of this Rule is to outline the general process for receipt, investigation, and resolution of civil rights complaints alleging discrimination, harassment, and/or related retaliation.

Procedures and Responsibilities

1. GENERAL

In order to establish an educational and work environment that is conducive to the personal and professional development of each member of the University community, Texas A&M International University (TAMIU) shall be free from all forms of discrimination, sexual harassment, and/or related retaliation based on race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation, and gender identity. Conduct constituting such discrimination, sexual harassment, and/or related retaliation is strictly prohibited and will result in appropriate sanctions.

All employees are responsible for ensuring their work and educational environments are free from discrimination, sexual harassment and/or related retaliation. When alleged or suspected discrimination, sexual harassment and/or related retaliation is experienced or observed by or made known to an employee, the employee is responsible for reporting that information as set forth in [System Regulation 08.01.01, Civil Rights Compliance](#) and this Rule. The limited exceptions to the requirement to report alleged or suspected discrimination are contained in in [System Regulation 08.01.01, Civil Rights Compliance](#). An employee's failure to report alleged or suspected discrimination may result in disciplinary action, including dismissal.

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](#).

2. DESIGNATIONS

The director of equal opportunity and diversity shall provide oversight and leadership of TAMIU's civil rights program, which prohibits discrimination, harassment, and/or retaliation based on the protected classes listed in Section 1 of this Rule. Accordingly, the director of equal opportunity and diversity shall be the designated **Title IX Coordinator**.

3. FILING REPORTS/COMPLAINTS

3.1 Any employee who believes that he or she has experienced, observed, or been informed of discrimination, sexual harassment, and/or related retaliation must promptly report the incident to the director of equal opportunity and diversity. Only certain employees may keep reports of violations confidential: licensed health care personnel and licensed counselors when acting in this capacity as part of their official employment. Students and third parties are strongly encouraged to promptly report the incident to the director of equal opportunity and diversity.

3.2 All complaints filed with the director of equal opportunity and diversity, will be processed in accordance with the timelines provided in [System Regulation 08.01.01, Civil Rights Compliance](#). Complaints may be submitted via [EthicsPoint](#), via [Report It](#), or in person with the director of equal opportunity and diversity.

3.3 Complainants 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.

4. INVESTIGATIONS

4.1 In accordance with [System Regulation 08.01.01, Civil Rights Compliance](#), the director of equal opportunity and diversity shall review complaints of discrimination, sexual harassment, and/or related retaliation and, if an investigation is warranted, appoint an investigative authority.

- 4.2 The investigative authority shall conduct a formal inquiry to discover and examine the facts of the allegation(s). The investigative authority shall interview the complainant(s), respondent(s), and witnesses (as applicable), review documentation and evidence (as applicable), and provide the director of equal opportunity and diversity a written investigation report, in accordance with the approvals and timelines in [System Regulation 08.01.01, Civil Rights Compliance](#).
- 4.3 The standard used to determine the merits of the allegations will be the preponderance of the evidence (i.e., more likely than not). For each allegation against a student, faculty member, staff member, or third party, the investigation report shall conclude if the allegation is substantiated, unsubstantiated, or whether there is insufficient evidence to substantiate.

5. DECISIONS AND SANCTIONS

- 5.1 The director of equal opportunity and diversity will identify a designated administrator to decide the merits of the complaint. In matters where the respondent is a student, the decision on the merits of the complaint will be rendered by an administrative review committee composed of two TAMIU administrators, at least one of which shall be within the division of student success. In all other matters, the designated administrators to decide on the merits of the complaint will be an administrative review committee consisting of associate vice presidents, deans, and/or vice presidents.
- 5.2 The director of equal opportunity and diversity shall provide the final investigation report to the designated administrative review committee for a decision. The administrative review committee shall render the decision in writing and provide it to the director of equal opportunity and diversity, who will then simultaneously provide the written decision to all appropriate individuals.
- 5.3 TAMIU has established mandatory minimum sanctions for sexual violence and sexual harassment violations by students. Once a finding of responsibility has been established, the administrative review committee will decide sanctions under the guidelines set forth in the *Title IX Violations Sanction Matrix*, which is attached as an appendix to this Rule. The administrative review committee may also make recommendations for sanctions to the appropriate authority 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 Non-faculty 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.
- 5.4 Students found responsible for committing acts of sex-based violence and/or non-consensual sexual penetration of another person who are allowed to return after a suspension of one year or more will be ineligible to hold an office in any student organization, ineligible to represent TAMIU in any way (including intercollegiate athletics or other competitions, both on and off campus), and ineligible to receive an institutional scholarship, in the absence of significant mitigating factors.

- 5.5 For other sexual violence and sexual harassment student conduct rule violations, TAMIU will evaluate the student's eligibility to represent TAMIU in extracurricular activities, both on and off campus. The initial determination of eligibility must exclude any administrator who has an inherent conflict of interest in the student's participation in a particular activity (e.g., the coach of a student-athlete, the advisor to a student club or organization).
- 5.6 When an employee is found to have sexually harassed (as defined by [System Regulation 08.01.01, Civil Rights Compliance](#)) another member of the TAMIU community, the sanction will be termination of employment. If the respondent is an employee, documentation of any resulting disciplinary action will be placed in the respondent's human resources file. If the respondent is a student, documentation of any resulting disciplinary action will be maintained in accordance with procedures in the division of student success.

6. APPEALS

- 6.1 In cases of sex-based (including sexual orientation and gender identity) discrimination, harassment, and/or related retaliation, appeals to the decision of the administrative review committee may be made by the complainant or the respondent. Appeals must be made within five TAMIU business days of the written decision and submitted to the director of equal opportunity and diversity in writing, using the *Discrimination/Sexual Harassment/Retaliation Complaint/Appeal Form*. The director of equal opportunity and diversity will identify an appropriate TAMIU administrator to render a decision on the appeal. The appropriate TAMIU administrator to render a decision on the appeal will be a vice president or president who does not have a conflict of interest in the matter.

Appeals will only be considered if based on one of the following:

- (a) A procedural error or omission that significantly impacted the outcome;
 - (b) New evidence, unknown or unavailable during the investigation, that could have significantly impacted the outcome; or
 - (c) The appropriateness or severity of the sanctions.
- 6.2 In cases of discrimination, harassment, and/or retaliation not based on sex, appeals to the imposition of sanctions (or lack thereof) may be made by the complainant or the respondent.
- 6.2.1 A respondent employee disciplined pursuant to this Rule may appeal that action in accordance with [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 Procedures for Faculty Members](#); [System Regulation 32.01.02, Complaint and Appeal Process for Non-faculty Employees](#); and/or other System policies/regulations or TAMIU rules/procedures as appropriate.
- 6.2.2 A respondent student receiving a sanction of expulsion or suspension pursuant to this Rule may appeal that action in accordance with procedures in the [TAMIU Student Handbook](#).

6.3 The decision on any appeal described above will be final.

Related Statutes, Policies, Regulations, or SAP's

[System Policy 08.01, Civil Rights Protection 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 Procedures for Faculty Members](#)

[System Regulation 32.01.02, Complaint and Appeal Process for Non-faculty Employees](#)

[TAMU Student Handbook](#)

Appendix

Title IX Violations Sanction Matrix

Contact Office

Office of Compliance (Equal Opportunity & 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>Nature of the Offense</p> <ul style="list-style-type: none"> • What are the facts? What happened? What effects has this conduct had on the reporting party? • What additional harm or damage could have occurred? • Does the respondent represent a foreseeable risk of harms to others? 	<p>Prior Disciplinary History of Respondent</p> <ul style="list-style-type: none"> • Does the respondent have a disciplinary record? • Is it for similar offenses? • Is there evidence of escalating behavior?
<p>Aggravating Factors</p> <ul style="list-style-type: none"> • What additional factors argue for a more severe sanction? <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>Mitigating Factors</p> <ul style="list-style-type: none"> • What additional factors argue for a less severe sanction? <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 or 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 administrative review committee 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 general, there should be a pairing of inactive and active sanctions that address all desired learning outcomes.

<p>Inactive Sanctions – 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 style="text-align: center;">Warning → Conduct Probation → Suspension → Expulsion</p>		
<p>Active Sanctions – 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> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> <ul style="list-style-type: none"> - Assessment, treatment, and/or education for alcohol and other drug issues - Workshops (health relationships, conflict management, anger management) - Counseling assessment </td> <td style="width: 50%; border: none; vertical-align: top;"> <ul style="list-style-type: none"> - Interviews and education essays - Guided reflection papers </td> </tr> </table>	<ul style="list-style-type: none"> - Assessment, treatment, and/or education for alcohol and other drug issues - Workshops (health relationships, conflict management, anger management) - Counseling assessment 	<ul style="list-style-type: none"> - Interviews and education essays - Guided reflection papers
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Title IX Violations Sanction Matrix

The following matrix shall guide the administrative review committee in determining sanctions and provide notice to the TAMU 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 (with predation)	<ul style="list-style-type: none"> • Intimate partner violence (with a pattern of previous violence or predation) • Penetration (with predation), no matter how slight, of a person’s anus or vagina with any bodily part or object • Performing oral sex on another person without consent or forcing a person to perform oral sex 	<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 (without predation)	<ul style="list-style-type: none"> • Intimate partner violence (without a pattern of previous violence or predation) • Penetration (without predation), no matter how slight, of a person’s anus or vagina with any bodily part or object • Performing oral sex on another person without consent or forcing a person to perform oral sex 	<p><u>Inactive Sanction Range:</u></p> <ul style="list-style-type: none"> • Suspension (at least 1 year) • Expulsion <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"> • 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. 	<p><u>Inactive Sanction Range:</u></p> <ul style="list-style-type: none"> • Conduct Probation • Suspension • Expulsion <p><u>Active Sanctions:</u> As appropriate for learning outcomes (based on investigative finding)</p>
Sexual Exploitation	<ul style="list-style-type: none"> • Secretly videotaping and/or broadcasting sexual activity • Purposeful sharing of sexually explicit images, video, or recorded sounds of another person without the person’s full knowledge and consent • Non-consensual voyeurism • Invasion of sexual privacy • Indecent exposure • Knowingly transmitting or exposing someone to a sexually transmitted disease without consent 	<p><u>Inactive Sanction Range:</u></p> <ul style="list-style-type: none"> • Conduct Probation • Suspension • Expulsion <p><u>Active Sanctions:</u> As appropriate for learning outcomes (based on investigative finding)</p>
Stalking Sexual Harassment	<ul style="list-style-type: none"> • Following or conducting surveillance of another person • Repeated and unsolicited surveillance of another person (e.g., phone calls, text messages, social media posts and messages, emails, gifts) • 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 • Sexual jokes, gestures, questions, remarks, and teasing • Inappropriate comments on appearance (dress and or body parts) • Unwelcome gifts of a sexual nature 	<p><u>Inactive Sanction Range:</u></p> <ul style="list-style-type: none"> • Reprimand • Conduct Probation • Suspension • Expulsion <p><u>Active Sanctions:</u> As appropriate for learning outcomes (based on investigative finding)</p>