08.01.01.C1 Civil Rights Compliance

Reviewed: September 30, 2024
Next Scheduled Review: September 30, 2029
Revision History

Rule Summary

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 systemwide 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 define the processes by which the policy and regulation will be further implemented at Texas A&M University-Corpus Christi (TAMU-CC). This rule should be read in conjunction with system regulation *08.01.01, Civil Rights Compliance*.

TAMU-CC's civil rights discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern.

TAMU-CC uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like "guilt, "innocence" and "burdens of proof" are not applicable, but TAMU-CC never assumes a responding party is in violation of university policy. Campus resolution proceedings are conducted to consider the totality of all evidence available, from all relevant sources.

Refer to system regulation *08.01.01, Civil Rights Compliance* for additional definitions related to civil rights.

Rule

1. RESPONSIBILITIES OF THE UNIVERSITY

    1.1. The President has the primary responsibility for ensuring compliance with civil rights laws and related system and university [agency] policy. As CEO, the

President has other duties and responsibilities outlined in the regulation.

1.2. The President designates Dr. Rosie Ruiz, the Employee Development & Compliance Services (EDCS) Administrator, as the person responsible for overseeing TAMU-CC's civil rights protection program and to serve as the campus Title IX Coordinator 361.825.2765, rosie.ruiz@tamucc.edu). The Director of EDCS and Title IX Coordinator will (1) ensure that all allegations of civil rights discrimination are promptly, thoroughly, and equitably investigated and resolved; (2) periodically follow up on situations in which discrimination is found to ensure that the situation does not recur; (3) develop, conduct, coordinate, and oversee campus civil rights compliance training; (4) provide periodic updates to managers and the campus community regarding the civil rights compliance program; and (5) coordinate TAMU-CC's efforts to comply with its responsibilities under federal & state law, and system policies and regulations.

2. RESPONSIBILITIES OF ALL EMPLOYEES AND STUDENTS

2.1. Employees (including student employees) must report complaints/reports of alleged or suspected discrimination to the campus Title IX Coordinator as soon as possible after receiving or becoming aware of the alleged or suspected discrimination. An employee who experiences, observes, or becomes aware of alleged or suspected discrimination that has been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident, must promptly report the incident to the Title IX Coordinator, Deputy Title IX Coordinator, or designee.

2.2. The office designated to receive complaints is:

Employee Development & Compliance Services (EDCS) Department-
Attention: Dr. Rosie Ruiz, Title IX Coordinator, or Ms. Kristie Diaz, Deputy Title IX Coordinator

2.3. Complaints can be submitted through any of the following methods:

(a) In person: Corpus Christi Hall, Room 130

(b) By Phone: 361.825.5826

(c) Email: rosie.ruiz@tamucc.edu or kristie.diaz@tamucc.edu

(d) Mail: Rosie Ruiz, TAMU-CC, CCH 130, Corpus Christi, TX 78412

(e) Electronic Reporting Option (includes an option to report anonymously):

1. *TAMU-CC Complaint Resolution* *https://www.tamucc.edu/president/compliance/edcs/complaints/form/index.php*
2. *System Risk, Fraud, & Misconduct Hotline (includes an option to report anonymously):* *https://secure.ethicspoint.com/domain/media/en/gui/19681/index.html*

2.4. An employee's failure to report alleged or suspected discrimination may result in disciplinary action, including dismissal.

2.5. Students and third parties (including, but not limited to, anyone receiving services from the member, vendors and private business associates) are strongly encouraged to report the incident(s) promptly to the member's office designated to receive such complaints. When applicable, an alleged victim of sexual harassment, sexual assault, domestic violence, dating violence, or stalking based on sex should be encouraged to go to a hospital for treatment and/or preservation of evidence as practicable following an incident.

2.6. Confidential Reporters are required to comply with federal and state law and must report to the Title IX Coordinator any type of sex-based incident made known to them but may not include any information that would violate that person's expectation of privacy (i.e., identifying information).

3. CIVIL RIGHTS COMPLAINT PROCESSING

3.1. Complaints

(a) A complaint is an oral or written report of an alleged violation of this regulation. A complaint may be filed by a complainant, any system member employee or student, or a third party. Under Title IX, the following employees have authority to institute corrective measures: Director, Employee Development & Compliance Services/Title IX Coordinator, Associate Director, Employee Development & Compliance Services/ Deputy Title IX Coordinator, Director, Human Resources, Provost, Associate Dean of Students/Student Conduct Office, and supervisors. An employee with authority to institute "corrective measures" means an employee with authority to redress discrimination for complaints involving only Title IX and sex-based misconduct.

(b) A formal complaint is a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose) filed by a complainant, or signed by the Title IX Coordinator, alleging sex-based discrimination against a respondent and requesting that

TAMU-CC investigate the allegation(s). The formal complaint must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the person filing the complaint.

(c) Complaints of suspected discrimination must contain as much specific information as possible.

(d) If the complaint information is insufficient, the EDCS office may conduct an inquiry into the circumstances of the complaint and (1) dismiss it as baseless; (2) close it for insufficient information to investigate or lack of jurisdiction; or (3) refer it to another office which has responsibility for such complaints. The complainant will be informed of a case dismissal.

(e) If the information is sufficient, the EDCS office will assign the complaint to an investigator(s) within five business days of the determination to proceed with the investigation.

(f) At any time prior to the determination of a final decision regarding the complaint, the parties may seek informal resolution through the EDCS office to resolve the complaint.

(g) Informal resolution may not be used to resolve complaints involving an employee alleged to have sexually harassed a student or to resolve complaints of rape, statutory rape, dating violence, domestic violence based on sex, or any case where imminent threats of harm may exist.

3.2. Investigations

3.2.1. As the Investigative Authority, EDCS will receive and investigate complaints in a prompt and equitable manner in accordance with the preponderance of the evidence (i.e. more likely than not) standard. In all investigations and in any hearing, 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. Privacy (restricting information to those with a compelling need to know) will be maintained throughout the entire investigatory process to the extent practicable and appropriate under the circumstances. The university cannot guarantee confidentiality (a form of privileged communication) except when information is provided to licensed health care/counseling personnel or licensed sexual assault advocates when acting in this capacity as part of their official employment.

3.2.2. Investigations will be conducted in accordance with the system regulation and the following general procedures:

(a) Provide a written Notice of Allegations (NOA) to the complainant and respondent (parties) indicating the: (1) allegation(s), (2) investigators(s), (3) Designated Administrator(s) (DAs), who are the decision-making authority, (4) general guidelines concerning advisors, (5) right to review evidence, (6) expectation of cooperation, (7) retaliation prohibition, and (8) options of supportive measures.

(b) Afford supportive measures to parties as appropriate, which include but are not limited to physical separation, contact limitations, alternative work, or other arrangements, academic accommodations, and/or counseling services. The Deputy Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures with various campus activities, including academics, housing, counseling, and other appropriate activities. Failure to comply with the terms of interim protections may be considered a separate violation of system policies and regulations and campus rules and procedures.

(c) Present written notice of date/time/location and participation of investigation interviews/meetings.

(d) Review complaint, interview parties, witnesses, examine exculpatory/inculpatory evidence, and complete an initial draft report within 30 business days of commencing the investigation. Inform parties of any extensions.

(e) Allow the complainant and respondent 10 business days to review the initial draft investigation report and submit written commentary to the investigative authority.

(f) Complete a final investigation report within five business days of receipt of written commentary from the parties and submit the investigation report with exhibits to the DA.

(g) Time frames for the receipt, investigation, and adjudication of complaints may be extended by the EDCS office for good cause with written notice to the complainant and respondent of the delay and/or extension and the reasons for the action

3.3. Dismissals

3.3.1. A Title IX complaint will be dismissed if the conduct alleged in the formal complaint:

(a) would not constitute discrimination, under Title IX even if proven; or

(b) did not occur in a TAMU-CC program or activity or on university premises; or

(c) is against a respondent who is not a university student or employee; or

(d) did not occur in the United States.

3.3.2. A formal complaint may also be dismissed if the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw it, if the respondent is no longer enrolled or employed by TAMU-CC or if specific circumstances prevent collecting evidence sufficient to reach a determination.

3.3.3. A Title IX case dismissal does not preclude investigation under sex-based misconduct or action under another provision of TAMU-CC's student conduct or employment standards.

3.4. Decisions

3.4.1. Administrative Conferences for Title IX cases occur if the complainant, respondent, and University all agree on both the findings associated with the allegations and the sanctions to be imposed, the DA may reach a written resolution of the complaint without a hearing, provided any sanctions imposed follow the sanctioning requirements. The pre-hearing conference may serve as the administrative conference. Administrative conferences are considered a form of informal resolution. However, as outlined in 3.1 f and g. there are limits on informal resolutions.

3.4.2. If a formal complaint cannot be resolved through an informal process or if either the complainant or the respondent requests a hearing, a formal live hearing will be conducted by the DA (hearing officer for employee respondents or hearing panel in accordance with Student Code of Conduct for student respondents).

3.4.3. At a hearing, the DA will provide the final investigative 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. The parties will be provided at least 10 business days to review the final investigative report and to respond to the DA prior to the hearing.

3.4.3.1. Hearings will be closed to the public. The DA will ensure that an audio or audiovisual recording, or transcript, of any live hearing is created and made available to the parties for inspection and review.

3.4.3.2. A complainant and a respondent at a hearing must have an advisor with them who will conduct cross-examination of parties/witnesses. In cases in which a party does not have an advisor who can fulfill this role, TAMU-CC will provide a trained advisor to assist them in the hearing process.

3.4.4. Employees

(a) In non sex-based complaints (to include allegations of pay disparities and/or program inequities) against an employee, the DA will review the investigation report and provide a decision to the parties within 10 business days of receipt of the investigation report. When the respondent(s) is an employee, both the complainant and the respondent(s) may review a redacted copy of the investigation report and exhibits, with admonishments regarding privacy, after the DA's decision is rendered

(b) In sex-based complaints following the hearing, the hearing officer will issue a decision letter to all parties within eight business days.

3.4.5. Students

Student Hearings will be conducted in accordance with the Student Code of Conduct.

3.5. Sanctions

3.5.1. Disciplinary sanctions or other actions that are not supportive measures may not be imposed on respondents prior to a determination of responsibility except in cases meeting the requirements for removal on an emergency basis. However, removal of a student on an emergency basis is not a sanction and will be determined by the Vice President for Student Engagement and Success through an individualized safety and risk analysis and consultation with the Title IX Coordinator, University Police Department, and other departments as appropriate. If a student is removed, the student respondent must be granted a hearing within five business days. The hearing authority for this purpose is the Vice

President for Student Engagement and Success.

3.5.2. The DA may decide sanctions, if any, or may delegate the sanctioning decision to a supervisor within the respondent's leadership chain.

3.5.3. The sanction for an employee found to have sexually harassed or engaged in sex-based misconduct, will be termination of employment.

3.5.4. Students found responsible for committing dating or domestic violence and/or non-consensual sexual penetration of another person will be subject to a minimum sanction of a one-year suspension, in the absence of significant mitigating factors. Students found responsible for these acts who have demonstrated predation for the purpose of carrying out these acts will be subject to permanent expulsion. Other sanctions and remedies are included in the Sanctioning Matrix (see Appendix section of this rule).

3.5.5. Students found responsible for sex-based misconduct who are allowed to return to TAMU-CC after a suspension of one year or more will be ineligible to hold an office in any student organization, ineligible to represent TAMU-CC 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.

3.6. Appeals

3.6.1. Appeal of Decision and/or Sanction – Allegations of Sex-based Discrimination

(a) Complainant and respondents may file an appeal concerning the DA's decision and sanction imposed only on the following basis, as applicable:

3. *a procedural irregularity that affected the outcome;*
4. *new evidence, not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome. The new evidence must be provided at the time of appeal with the appropriate member appeals form;*
5. *the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome; or*

6. *the appropriateness or severity of the sanctions.*

(b) For employees, the appeal must be filed with the Title IX Coordinator within five business days of notification of decision. The Title IX Coordinator will direct the appeal to the appellate authority (senior administrator) designated by the president to review and decide the appeal. The appellate authority will have 15 business days to finalize the decision and inform the parties of the decision.

(c) For students, the appellate authority is the appeal board made up of a quorum of three members of the Student Misconduct Hearing Panel. The appellate authority has 10 business days to reach the decision and provide it to the complainant(s), the respondent(s), and the investigative authority simultaneously to the extent possible.

3.6.2. Appeals – Allegations of Discrimination Not Based on Sex Discrimination

(a) Any employee disciplined pursuant to this rule may appeal that action to the appellate authority (senior administrator) designated by President to review and decide the appeal in accordance with system policies or regulations as appropriate. Employees appealing sanctions will receive an unredacted copy of the investigation report and exhibits, upon request, with admonishments regarding privacy.

(b) Any student receiving a sanction of separation (expulsion or suspension) pursuant to this rule may appeal the sanction in accordance with the Student Conduct & Community Standards Conference and Hearing procedures.

3.7. Informal Resolution

3.7.1. Informal resolution is a voluntary process. When parties request informal resolution to resolve the complaint, the Associate Director, EDCS and Deputy Title IX Coordinator will obtain the parties voluntary, written consent to the informal resolution process and conduct/coordinate the informal resolution.

3.7.2. Informal resolution options include mediation, restorative conferences, shuttle facilitation, and other forms of facilitated dialogue.

3.7.3. Mediation may not be used to resolve complaints of rape, statutory rape, dating violence, domestic violence, or any case in which imminent threats of harm may exist.

3.7.4. Informal resolution must not be utilized to resolve allegations that an employee sexually harassed a student.

3.7.5. Once a party agrees to participate in informal resolution, they may withdraw from the process at any time prior to a final agreement and resume the formal grievance process.

3.7.6. Once a final agreement is established through informal resolution, the complaint may not return to the formal complaint process unless one or both parties fail to abide by any conditions established in the agreement.

3.8. Follow-Up

After the conclusion of an investigation and hearing, the Director, EDCS and Title IX Coordinator or Associate Director, Deputy Title IX Coordinator will follow up with the complainant/reporter and supervisors, as appropriate, to evaluate the effectiveness of informal resolution, remedies/sanctions.

4. EMPLOYEE AND STUDENT RESOURCES

4.1. Counseling services are available for employees through the Employee Assistance Program and for students at the University Counseling Center, the Crime Victims' Liaison, and I-CARE.

4.2. Required training

(a) TAMU-CC personnel involved in the reporting, review, investigation, adjudication, advisement, appeals, and informal resolution of civil rights discrimination complaints will complete minimum annual training requirements as identified in system regulation *08.01.01, Civil Rights Compliance*.

(b) Police and Public Safety will complete advanced training as campus first responders and on trauma-informed investigations.

(c) All entering first-year students (including transfers) will be required to complete online Title IX training during the student's first semester. Reporting protocols will be emailed to each student at the beginning of each fall and spring semester.

(d) Additionally, student groups/organizations (e.g., student-athletes,

Greek, ROTC, international) may be required to complete organization-specific Title IX training.

Related Statutes, Policies, or Requirements

System Policy *08.01, Civil Rights Protections and Compliance*
System Regulation *08.01.01, Civil Rights Compliance*
System Regulation *08.01.02, Civil Rights Protections for Individuals with Disabilities and Certain Other Employees*
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*
University Procedure *08.01.01.C1.01, Student Pregnancy and Parenting Support*
University Procedure *08.01.01.C1.02, Employee Request for Religious Accommodations*
University Procedure *08.01.02.C0.01, Employee/Applicant Requests for Reasonable Accommodations Under the ADA*
University Procedure *08.01.02.C0.02, Accommodations at University Facilities and Events*
University Procedure *08.01.02.C0.03, Service and Emotional Support Animals*
University Procedure *12.01.99.C0.02, Academic Freedom*

Appendix

Sanctioning Matrix for Student Sex-based Discrimination
Student Code of Conduct
System Risk, Fraud, & Misconduct Hotline
University Complaint Resolution

Confidential Reporters:
University Health Center
University Counseling Center

Contact Office

Contact for interpretation and clarification:	Employee Development & Compliance Services, Title IX Coordinator 361.825.5826