



## 08.01.01.D1

## Civil Rights Compliance

Approved: August 4, 2016

Revised:

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### Rule Statement

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Texas A&M University-Central Texas (A&M-Central Texas) is committed to providing an educational and working environment that provides equal opportunity to all members of the A&M-Central Texas community. A&M-Central Texas will strictly comply with all local, state and federal civil rights laws and regulations prohibiting illegal discrimination, sexual harassment, and/or related retaliation against employees, students, applicants for employment or admissions and the public, regardless of race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation or gender identity.

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### Reason for Rule

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This rule is designed to provide a prompt, equitable and fair process for resolving complaints of illegal discrimination, sexual harassment, and/or related retaliation.

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### Procedures and Responsibilities

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#### 1. CIVIL RIGHTS OVERVIEW

In accordance with A&M System Regulation 08.01.01, Civil Rights Compliance, when alleged illegal discrimination, sexual harassment and/or related retaliation is experienced or observed by, or made known to, an employee, the employee is required to report that information as specified in this rule.

- 1.1 Students and/or third parties who experience, witness or are aware of suspected incidents of discrimination, sexual harassment, and/or related retaliation involving a university employee or student are strongly encouraged to report the incident as specified in this procedure.
- 1.2 Sexual harassment is a form of sex discrimination. For the purposes of this rule, the definition of sexual harassment found in A&M System Regulation 08.01.01 applies.
- 1.3 Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. A&M-Central Texas's President has designated the Title IX Coordinator as having primary

responsibility for coordinating efforts to comply with this law, including the investigation and resolution of complaints, the implementation of corrective measures, and monitoring the educational and work environment to stop, remediate, and prevent discrimination on the basis of sex.

## 2. OPTIONS FOR RESOLUTION

2.1 Complaints of discrimination, sexual harassment, and/or related retaliation may be resolved through informal or formal processes.

2.2 Regardless of the method of resolution or the outcome, individuals may at any time file a complaint with the U.S. Equal Employment Opportunity Commission, the Texas Workforce Commission Civil Rights Division, the United States Department of Education (Office for Civil Rights), or the U.S. Department of Labor (Office of Federal Contract Compliance Programs).

## 3. COMPLAINTS AGAINST EMPLOYEES

3.1 Any person who believes they have been subjected to discrimination, sexual harassment and/or related retaliation by an A&M-Central Texas employee or third party should promptly report the incident(s) to the Director of Employee Services, the Vice President for Academic & Student Affairs (VPASA), or the Title IX Coordinator.

3.2 If related to the receipt of disciplinary action, complaints of discrimination, sexual harassment, and/or related retaliation against an employee or third party should be filed in writing with one of the officials designated above within 10 business days. All other such complaints against an employee or third party should be filed in writing with one of the officials designated above within 90 calendar days. Supervisors or administrators who receive a complaint against a staff employee or third party should forward it to the Director of Employee Services or the Title IX Coordinator within five (5) business days of receipt. Complaints against a faculty member filed with a supervisor or administrator should be forwarded to the VPASA or the Title IX Coordinator within five (5) business days of receipt.

3.3 Upon receipt of a complaint, the Director of Employee Services, the Title IX Coordinator, the VPASA, or designee will conduct a preliminary inquiry into the allegation(s). If the inquiry indicates the report may have substance, any parties potentially harmed by the alleged conduct will be contacted to determine their willingness to cooperate in an investigation. If those potentially harmed individuals choose not to participate, the Director of Employee Services, the Title IX Coordinator, the VPASA, or designee will consult with the System Ethics and Compliance Office and the A&M System Office of General Counsel (OGC) to determine if an investigation should proceed nonetheless, or if the matter should be closed.

3.4 If the preliminary inquiry of a complaint indicates the allegation(s) may have substance, the Director of Employee Services, the VPASA, or the Title IX Coordinator will appoint an investigative authority to conduct a formal investigation of the complaint. Both the complainant and the respondent will be notified in writing of the appointment of the investigative authority. This notification will include a summary of the allegations. The

appropriate official will also appoint a designated administrator to render the final decision regarding the merits of the complaint.

- 3.5 Investigators will notify the parties and witnesses that maintaining privacy is essential to protect the integrity of the process and will request that they refrain from discussing the investigation with others. Investigators will also limit the disclosure of facts to witnesses to what is reasonably necessary to conduct a fair and thorough investigation. The complainant and respondent should be informed in writing of any extensions of the deadlines contained in A&M System Regulation 08.01.01.
- 3.6 The Director of Employee Services, the Title IX Coordinator, the VPASA, or designee may dismiss a complaint, in consultation with OGC, if the facts alleged do not constitute prohibited illegal discrimination, sexual harassment, or related retaliation, or if the appropriate resolution or remedy has already been achieved or has been offered and rejected. If no investigation will be conducted, the complainant will be informed in writing of the reason for dismissing the complaint.
- 3.7 Individuals who in good faith report a suspected violation of policy, regulation, rule, procedure or law shall not be penalized, disciplined, or prejudiced in any manner.
- 3.8 Any employee or student who knowingly and intentionally provides false information during the course of an investigation may be subject to disciplinary action, including expulsion or termination.
- 3.9 Both the individual subjected to the alleged illegal discrimination, sexual harassment and/or related retaliation and the respondent must receive equitable treatment in all facets of the complaint and investigation process as defined in A&M System Regulation 08.01.01.

#### 4. INVESTIGATIVE REPORTS

- 4.1 Generally, an investigation will result in a written report that, at a minimum, includes
  - 4.1.1 a statement of the allegations and issues,
  - 4.1.2 a summary of the information considered, and
  - 4.1.3 conclusions as specified below.
- 4.2 There are three conclusions for each allegation using a preponderance of the evidence standard:
  - 4.2.1 Substantiated: It is more likely than not that the allegation is true.
  - 4.2.2 Unsubstantiated: It is more likely than not that the allegation is untrue. A finding that the allegation is unsubstantiated does not necessarily indicate that the complaint was knowingly false.
  - 4.2.3 Insufficient Evidence to Substantiate: It is not possible to determine whether the allegation is true or untrue due to insufficient evidence.

## 5. VIOLATIONS

- 5.1 The investigative authority will provide a draft report on the results of the evidence collected as specified in Sections 4.1 and 4.2 to OGC for legal sufficiency review and submit the finalized investigative report to the designated administrator in the timeline outlined in A&M System Regulation 08.01.01.
- 5.2 The designated authority will review the investigation report and either concur with the conclusions of the report, disagree with the conclusions, or refer the case back for additional investigation. The complainant, the respondent, and the respondent's supervisor(s) will be informed in writing of the designated authority's decision, which can only be appealed as defined in A&M System Regulation 08.01.01. The appeal must be submitted within 10 calendar days of receiving the written decision.
- 5.3 If the designated authority determines that a system policy or regulation, or university rule or procedure, has been violated, the respondent's supervisor(s) will take appropriate action in accordance with system and university disciplinary processes. Implementation of disciplinary action against faculty will be handled in accordance with System Policy *12.01 Academic Freedom, Responsibility and Tenure*. Disciplinary action against a staff member will be handled in accordance with *System Regulation 32.02.02, Discipline and Dismissal of Nonfaculty Employees*. Disciplinary actions can include, but are not limited to, written warning or reprimands, the imposition of conditions, reassignment, probation, suspension, and dismissal.
- 5.4 The notification of sanctions, if any, will be conveyed to the complainant in accordance with state and federal law.
- 5.5 Any employee disciplined pursuant to this procedure may appeal that action in accordance with *System Regulation 32.01.01, Complaint and Appeal Procedures for Faculty Members*, *32.01.02 Complaint and Appeal Process for Non-faculty Employees*, and/or other rules or procedures as appropriate.

## 6. COMPLAINTS AGAINST STUDENTS

- 6.1 Any person who believes to have been subjected to illegal discrimination, sexual harassment and/or related retaliation by a A&M-Central Texas student should promptly report the incident(s) to a university administrator, the Associate Dean of Student Affairs, or the Title IX Coordinator.
- 6.2 Investigation and resolution of allegations of illegal discrimination, sexual harassment and/or related retaliation committed by an A&M-Central Texas student will follow the processes specified in the [Code of Student Conduct](#). The Office of Student Conduct will inform the Title IX Coordinator of any Title IX-related complaints and their resolution.
- 6.3 Implementation of disciplinary action against students will be in accordance with the [Code of Student Conduct](#). The notification of sanctions, if any, will be conveyed to the complainant in accordance with state and federal law. Any student disciplined pursuant to this procedure may appeal that action in accordance with the [Code of Student Conduct](#).

## 7. TEMPORARY MEASURES

- 7.1 At any point in the complaint process, the respondent may be placed on administrative leave, temporary suspension, reassigned, or placed in another type of temporary status pending completion of the investigation and final resolution of the complaint.
- 7.2 Interim protections or remedies may include physically separating the parties, limiting contact between the parties, providing alternative workplace or student housing arrangements, and academic adjustments.
- 7.3 Failure to comply with the terms of interim protections may be considered a separate violation of system policies and regulations and university rules and procedures.

## 8. RETALIATION

- 8.1 Retaliatory action of any kind is prohibited when taken against a complainant, witness or other person participating in an illegal discrimination, sexual harassment and/or related retaliation investigation, complaint, hearing or suit. Such retaliatory action will be regarded as a separate and distinct cause for a complaint and possible disciplinary action, including dismissal and/or expulsion.

## 9. ADDITIONAL PROCEDURES FOR TITLE IX COMPLAINTS

- 9.1 Complaints of conduct prohibited by Title IX will be handled in accordance with the applicable sections above. The Title IX Coordinator must be informed of all incidents of alleged sex discrimination, including sexual harassment and sexual violence, reported to a university employee, regardless of where the complaint is brought, investigated, or resolved. The Title IX Coordinator will coordinate the resolution of Title IX-related complaints that may involve university offices with concurrent jurisdictional responsibilities.
- 9.2 The Title IX Coordinator or other university employee receiving a complaint or report of sex discrimination may recommend, but cannot require, the recipient of the alleged conduct to report the incident to a law enforcement agency.
- 9.3 Investigators assigned to Title IX cases will have received training and/or experience in conducting investigations of sex discrimination and in the University's grievance procedures. The Title IX Coordinator will maintain a roster of assignments made, cases completed, and length of service as a Title IX investigator and will provide the same to the President or designee upon request.
- 9.4 The University will respond, to the greatest extent possible, to reports of sex discrimination brought anonymously or brought by third parties not directly impacted by the conduct. However, the response to such reports may be limited if information contained in the report cannot be verified by an independent inquiry or investigation.
- 9.5 The Title IX Coordinator will provide complainants, respondents, and other individuals who file a report of sex discrimination information about the range of possible outcomes, including interim protections, remedies for individuals harmed by conduct, and disciplinary actions that may be taken against the respondent if the allegations are

substantiated. The Title IX Coordinator will also ensure that parties to the complaint are informed of the appropriate grievance process.

## 10. PRIVACY AND CONFIDENTIALITY

- 10.1 A&M-Central Texas will protect the privacy of individuals involved in a report of illegal discrimination, sexual harassment, and/or related retaliation to the extent allowed by state and federal law.
- 10.2 Only A&M-Central Texas mental health counselors and other medical professionals holding a license requiring confidentiality can provide complete confidentiality, when acting in this capacity as part of their official employment. All other employees who receive a complaint of illegal discrimination, sexual harassment and/or related retaliation should inform the source of their obligation to report the information.
- 10.3 An individual's request to withhold his or her name and/or the name of the alleged violator, and/or a request not to investigate or seek action against the alleged violator, may limit the university's ability to respond adequately to a complaint. Such requests will be considered in the context of the university's obligation to provide a work and educational environment that is free from illegal discrimination, sexual harassment, and/or related retaliation. In order to provide such an environment, the University may need to take action regardless, particularly in cases involving violence, threat, predation, pattern, or weapons.

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## Related Statutes, Policies, or Requirements

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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 Regulation 32.01.01 \*Complaint and Appeal Procedure for Faculty Members\*](#)

[System Regulation 32.01.02 \*Complaint and Appeal Procedure for Non-Faculty Employees\*](#)

[University Procedure 12.02.99.D1.01 \*Institutional Procedures for Implementing Tenure\*](#)

[Code of Student Conduct](#)

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## Definitions

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See definitions in A&M System Regulation 08.01.01 *Civil Rights Compliance*.

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## Contact Office

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