

STANDARD ADMINISTRATIVE PROCEDURE

08.01.01.M1.01 Investigation and Resolution of Allegations of Discrimination, Harassment, Retaliation, and/or Complicity Against Students, Employees, and Third Parties

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SAP Statement

The purpose of this SAP is to identify the procedures the University will use when responding to reports or complaints of discrimination, harassment, retaliation and/or complicity filed against students, employees, or third parties.

Definitions

The definitions from [Texas A&M System Regulation 08.01.01](#) are incorporated by reference as if fully set forth herein.

Procedures and Responsibilities

1. ROLES AND RESPONSIBILITIES

- 1.1 The **Office of Civil Rights and Title IX (CR/T9)** has been designated to receive and resolve all reports alleging discrimination, harassment, retaliation and/or complicity against students, employees, and third parties. CR/T9 is responsible for appointing the Investigative Authority.

Reports that a student, employee, or a third party has engaged in discrimination, harassment, retaliation and/or complicity should be made to CR/T9 by contacting the **Assistant Vice President and Title IX Coordinator**, YMCA Suite 108, College Station, TX 77843. Reports may also be made by calling (979) 458-8407,

emailing civilrights@tamu.edu, or using the “Make a Report” form found at TitleIX.tamu.edu.

The Assistant Vice President and Title IX Coordinator’s responsibilities include but are not limited to (1) overseeing the process of responding to allegations of discrimination, harassment, retaliation and/or complicity; and (2) identifying and addressing any patterns or systemic problems that arise from the review of such complaints.

- 1.2 The **Investigative Authority (IA)** consists of one or more trained individuals appointed to conduct a formal investigation to discover and summarize the facts related to an allegation in an Investigation Report. In the Investigation Report, the IA may make conclusions as to the credibility of a party or witness, and, in cases which do involve allegations of sex-based misconduct and/or sexual harassment, the IA may draw conclusions as to whether or not the alleged conduct occurred.
- 1.3 The **Designated Administrator (DA)** reviews the Investigation Report, the documentary evidence, the record of the hearing (if applicable), and any other relevant information and renders a written decision of responsibility based on the preponderance of the evidence as to 1) whether the conduct alleged occurred, and 2) whether the Respondent violated [Texas A&M System Regulation 08.01.01](#) and/or [Texas A&M University Rule 08.01.01.MI](#). The DA may also render a written decision as to whether other regulations, codes, policies, rules or SAPs were violated. If any violation(s) are found, the DA may issue sanctions.
 - 1.3.1 The University’s Chief Risk, Ethics, and Compliance Officer will appoint a **University Official** and/or a **Hearing Officer** to be the DA. The University Official and/or the Hearing Officer will render decisions in cases with allegations against employees, third parties, and students, except as follows:

The chancellor or designee will serve as the DA in complaints against the Texas A&M President or an employee who reports directly to the Texas A&M President; a Chief Operating Officer or an employee who reports directly to the Chief Operating Officer; or an employee who works in the Office of Civil Rights and Title IX. The chair of the Board of Regents or designee will serve as the DA in complaints against the chancellor or an employee who reports directly to the chancellor.
 - 1.3.2 If a Hearing Officer is appointed, the Hearing Officer will preside over a hearing and will determine the relevancy of the evidence and the questions asked during cross-examination.
- 1.4 If the Complainant or the Respondent files a valid appeal of the Title IX Coordinator’s dismissal of allegations of sexual harassment or sex-based misconduct, or of the DA’s decision on allegation of sexual harassment or sex-based misconduct, the **Appellate Authority (AA)** will review the Title IX

Coordinator's letter of dismissal, the Investigation Report, the DA's decision, the documentary evidence, the record from the hearing (if applicable), or any other relevant information and render a written decision on the appeal. See *Section 6.2* below for a description of a valid appeal.

1.4.1 Appeals of decisions based on allegations against Students:

The AA for appeals of decisions based on allegations against students is the University Disciplinary Appeals Panel (UDAP) and the appeal will follow the procedure outlined in *Section 6* below and [Student Rule 58](#). UDAP may refer the appeal to the Dean of Student Life or designee.

1.4.2 Appeals of decisions based on allegations against Non-faculty Employees and Third Parties:

The AA for non-faculty employees and third parties will be the Vice President for the Division of Human Resources and Organizational Effectiveness or designee. The appeal will follow the procedure outlined below in *Section 6* below and in [Texas A&M System Regulation 32.01.02](#).

1.4.3 Appeals of decisions based on allegations against Faculty:

The AA for faculty employees will be the Provost & Executive Vice President or designee. The AA may seek an advisory opinion regarding the appeal from the **University Committee on Faculty Disciplinary Appeals (UCFD)** before rendering a decision.

The appeal will follow the procedure outlined in *Section 6* below and in *University Rule 12, Faculty*.

- 1.5 All persons serving as DAs, AAs, and IA's will be impartial and free of conflicts of interest. Parties who are concerned about the impartiality of an individual serving in one of these roles should submit their concerns, in writing, to the Chief Risk, Ethics, and Compliance Officer, who may designate alternative individuals to fulfill any of these roles.

2. PROCEDURES FOR INITIAL REVIEW AND PRELIMINARY ASSESSMENT OF REPORTS AND/ OR COMPLAINTS

- 2.1 CR/T9 will conduct an initial review of all reports and/or complaints that are received by CR/T9 against students, employees, or third-party Respondents. The purpose of the review is to: 1) assess and address the safety and well-being of the Complainant, the Respondent, and the community, and 2) determine whether a violation of [Texas A&M System Regulation 08.01.01](#) and/or [Texas A&M University Rule 08.01.01.M1](#) and/or any other University rule, SAP, code or policy could have occurred.

As part of the review, CR/T9 will take the following steps:

- Inform the Complainant, if known, about their [rights, resources, and options](#), including options for medical treatment, counseling, and other support services. Provide the Complainant with written information about University and community resources that individuals who experience discrimination, harassment, or retaliation are entitled to receive regardless of whether they choose to pursue informal, formal, or criminal remedies.
- Inform the Complainant of their right to file a complaint with law enforcement (if applicable) in addition to filing a complaint with CR/T9. Inform the Complainant of their right to decline to contact law enforcement. Offer to assist the Complainant with notifying law enforcement if desired.
- Inform the Complainant of their right to file a complaint with state and federal agencies.
- Offer the Complainant the opportunity to request supportive measures. *See Section 2.2 below.*
- If applicable, advise the Complainant about the importance of preserving evidence that could assist in the investigation.
- Inform the Complainant about options for formal and informal resolutions under this SAP and solicit the Complainant's preferred method for resolving the matter.
- Inform the Complainant about the University's prohibition against retaliation.
- Offer to assist the Complainant in submitting a formal, written complaint that details the nature and circumstances of the allegations, including the names of the Complainant(s) and the Respondent(s).
- Determine whether the Complainant is a minor, elderly, or disabled and, if required, contact the appropriate agency in accordance with Texas law.
- Consider an interim removal of the Respondent from University geography, programs, or activities if the Respondent is an immediate threat to the health and safety of the community or another individual. *See Section 8.*
- Report de-identified statistics in accordance with University policies for Clery Compliance purposes, if required.

2.2 The University offers a range of supportive measures to employees, students, and third parties. The purpose of these measures is to:

- restore or preserve equal access to the workplace and educational programs or activities without unreasonably burdening the other party
- stop and prevent the reoccurrence of discrimination, harassment, and/or retaliation

- support the Complainant and the Respondent during the investigation and resolution process.

Supportive measures are non-disciplinary, non-punitive, individualized services. Supportive measures are offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent. A party may request a supportive measure through their case manager at any time, regardless of whether a formal complaint has been filed. Supportive measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus or workplace, and other similar measures. Parties seeking a supportive measure should discuss their options with their case manager.

- 2.3 In addition to facilitating supportive measures, case managers can provide parties with access to University Officials with information about counseling, medical, mental health, victim advocacy, visa and immigration information, impact of a leave of absence on student financial aid, and other services available to Complainants and Respondents (on campus and in the community). Information is also available here:

[Rights, Resources, and Options for Complainants](#)
[Rights, Resources, and Options for Respondents](#)

- 2.4 Case Managers will notify the parties that options such as protective orders and criminal trespass warnings may be available through law enforcement agencies and the judicial system.

If a Complainant, Respondent, or other member of the University community has obtained a protective order, civil no-contact order, restraining order, or similar order from an appropriate court against another member of the University community, a copy of the order should be provided to the Chief Risk, Ethics, and Compliance Officer. In conjunction with the University Police Department (UPD) and other University officials, the Chief Risk, Ethics, and Compliance Officer will take all reasonable actions authorized by law to implement the order. For more information about how to obtain a protective order in the state of Texas, please consult: <https://guides.sll.texas.gov/legal-forms/protective-orders>.

- 2.5 The University will provide reasonable supportive measures to third parties as appropriate and available, taking into account the role of the Third Party and the nature of any contractual relationship with the University.
- 2.6 Complainants may request a formal resolution, an informal resolution, or “no resolution” of allegations of discrimination, harassment, retaliation and/or complicity.

2.6.1 The allegations will be considered for investigation pursuant to the procedures set forth in *Section 3* below. CR/T9 reserves the right to resolve a complaint informally or through no resolution if the allegation does not rise to the level of conduct prohibited by *System Regulation 08.01.01*.

2.6.2 If the Complainant requests that no resolution of the allegations occur, the University will seek to honor the request whenever possible without impeding the University's ability to enhance the safety and security of the Complainant and the University community. CR/T9 will consider the following factors when evaluating such requests:

- All of the known circumstances, including any corroborating evidence
- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon
- The respective ages and roles of the Complainant and Respondent
- Whether there have been other reports of prohibited conduct or other misconduct by the Respondent
- Whether the report reveals a pattern of misconduct related to prohibited conduct (e.g. via illicit use of drugs or alcohol) at a given location or by a particular group
- Fairness considerations for both the Complainant and the Respondent
- Whether the University possesses other means to obtain relevant information and evidence
- The University's obligation to provide a safe and non-discriminatory environment
- Any admissions of responsibility by the Respondent, if any
- The impact of honoring the request on the Complainant and the University Community, including the risk of additional violence.

2.6.3 If the University is able to honor the Complainant's request for no resolution, the University may close the matter with no action taken, or the University may proceed, with other appropriate steps, including investigation and disciplinary action against the Respondent for violations of other rules, SAPs, regulations, policies or codes, if applicable.

If the University determines that the Complainant's request cannot be honored, the Complainant will be notified of the decision, and CR/T9 will take appropriate actions, including but not limited to: (1) offering support services or academic adjustments; and (2) initiating a formal investigation or informal resolution.

2.7 Upon receipt of a report, CR/T9 may consult with the Texas A&M University System Office of General Counsel (OGC) as needed and make a preliminary

determination about whether to conduct a formal investigation of the allegations. The preliminary determination may include, but is not limited to, the following:

- An assessment of whether there is sufficient known or obtainable information to proceed with an investigation of the complaint;
- An assessment of whether the allegations are baseless;
- An assessment of whether the allegations, if true, would constitute a violation of *System Regulation 08.01.01*; and/or
- An assessment of whether a Complainant's request for no resolution may be honored.

If it is determined that there is insufficient information to proceed with an investigation; or that the allegations are baseless; or, that the allegations, if true, would not constitute conduct prohibited by *Texas A&M System Regulation 08.01.01* and/or *Texas A&M University Rule 08.01.01.M1*; or that an investigation will not occur due to Complainant's request for no resolution, CR/T9 may:

- Dismiss the complaint; or
- may refer the report to a different office at the University who may review the conduct and take appropriate action, including but not limited to disciplinary action against the Respondent for violations of other University rules, codes, regulations, policies, or SAPs, if applicable.

2.8 Complaints which are dismissed or referred may be appealed in accordance with *Section 6* of this Rule.

3. FORMAL INVESTIGATION OF COMPLAINTS

3.1 Once it has been determined that the University will proceed with a formal investigation, CR/T9 will appoint the Investigative Authority (IA). The IA may include one or more appropriately trained investigators.

3.2 The Assistant Vice President and Title IX Coordinator (or designee) shall simultaneously notify the Complainant(s) and Respondent(s) in writing of the commencement of the investigation. The notice will be given in accordance with System Regulation 08.01.01, Section 4.2.1d.

3.3 If the Respondent is an employee, the Assistant Vice President and Title IX Coordinator (or designee) shall also notify, in writing, the Respondent's department head that CR/T9 is investigating an allegation that the Respondent has engaged in conduct that may be a violation of [*Texas A&M System Regulation 08.01.01*](#) and/or [*Texas A&M University Rule 08.01.01.M1*](#) or other University rules, SAPs, codes, or policies.

- 3.4 The IA will review the complaint, conduct a prompt, fair, thorough and impartial investigation, and provide a draft investigative report to OGC for legal sufficiency review.
- 3.5 Abuse of the investigation and resolution process is prohibited and subject to disciplinary action up to and including dismissal or separation from the University. Examples of abuse of process include, but are not limited to:
- Failure to appear at a meeting, interview, hearing, or conference as set forth in a notice issued by CR/T9
 - Falsification, distortion, destruction, or misrepresentation of evidence or information
 - Disruption or interference with the orderly conduct of an investigation, interview, meeting, hearing or conference
 - Intentionally initiating or causing to be initiated a false report
 - Attempting to discourage an individual's proper participation in, or use of, the investigation and resolution process, disciplinary process, or legal process
 - Attempting to influence the impartiality of the IA, AA, or DA prior to, and/or during the course of, the investigation and resolution process
 - Verbal or physical intimidation, and/or retaliation of any party to the investigation and resolution process prior to, during, and/or afterwards.
 - Failure to abide by the terms of University administered sanctions.
 - Influencing or attempting to influence another person to commit an abuse of the investigation and resolution process
 - Failure to cooperate fully with the IA (applies to employees only)

Students, Employees, and Third Parties who are found responsible for abuse of the investigation and resolution process are subject to the sanctions outlined in *Section 5* of this SAP.

- 3.6 During the investigation, the Complainant and the Respondent will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions to be asked of the other party. Questions for the other party will be asked by and at the discretion of the IA. The IA will meet separately with the Complainant, the Respondent, and any witnesses, and will gather other relevant and available evidence and information. The IA may also consult medical, forensic, technological, or other experts when expertise is needed in order to achieve an understanding of the issues under investigation.
- 3.7 Witnesses must (1) have observed the acts in question, (2) have information related to or relevant to the incident, or (3) have information about impact, mitigation, aggravation, and/or character in order to participate in the investigation process.

- 3.8 When the University is made aware that there is a concurrent criminal investigation, CR/T9 may inform the law enforcement agency that a University investigation is also in progress; ascertain the status of the criminal investigation; and, determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

At the request of law enforcement, the University may temporarily defer part or all of the investigation until after the initial evidence-gathering phase of the law enforcement investigation is complete. The IA will communicate with the parties (as appropriate) about the law enforcement agency's request to the extent allowed by law; the University's obligations and supportive measures; procedural options; anticipated timing; and the implementation of any necessary supportive measures for the safety and well-being of all affected individuals.

- 3.9 Standards for the resolution of criminal allegations are different than the standards for resolution of a violation of Texas A&M System Regulation 08.01.01 and/or any other University policy, rule, SAP, or code; therefore, the University will not base its decisions under this SAP on any law enforcement determination and/or the outcomes of any criminal proceedings.
- 3.10 The IA has the sole discretion to determine the relevance of evidence and whether it should be included in or excluded from the Investigation Report. If applicable, the Hearing Officer has the sole discretion to determine the relevance of evidence and whether it should be heard at a hearing. Neither the Texas Rules of Evidence nor the federal Rules of Evidence apply in university hearings.
- 3.11 CR/T9 is responsible for all administrative actions required to conduct the investigation. These include, but are not limited to, informing the parties of extensions or other delays affecting the investigation, contacting supervisors or faculty regarding their employees' or students' time away from work or class to participate in the investigative process, making reports to university administrators, coordinating supportive measures, and undertaking any other tasks necessary to properly conduct the investigation.
- 3.12 Both the Complainant and the Respondent have the right to choose an advisor to be present at any time in which the party participates in the investigation and resolution process, including the filing of the complaint, the interview with the IA, and all other meetings or proceedings related to the investigation and resolution of the complaint. A party may select any person to be an advisor, including legal counsel.

If the allegations are related to sexual harassment or sex-based misconduct, a party must have an advisor for the hearing to provide guidance and to conduct cross examination. If a party does not have an advisor for a hearing involving sexual harassment or sex-based misconduct allegations, the University will appoint an advisor for the party. To the extent reasonably possible, the University will provide a party without an advisor with a list of trained advisors and allow the party to select an advisor to be appointed from the list.

In all instances, the advisor's participation will be limited to the role of an observer, except that the advisor will (1) conduct the cross examination during a hearing on allegations of sexual harassment or sex-based misconduct and (2) provide support and guidance to their party. An advisor can be barred from being present during the investigation and resolution process if, in the judgment of the IA, the DA, the AA, or the Assistant Vice President and Title IX Coordinator, the advisor attempts to advocate on behalf of a party (other than conducting cross-examination) or is otherwise disruptive.

- 3.13 At the conclusion of the investigation, the IA will prepare a Draft Investigation Report which includes all inculpatory and exculpatory information that is directly related to the allegations. The Complainant and the Respondent (and their advisors, if any) will be notified once the Draft Investigation Report is complete and will be given an opportunity to review the Draft Investigation Report as well as all inculpatory and exculpatory information related to the allegations. Parties may submit a written response to the Draft Investigation Report and the evidence to the IA. A party's response may include (1) written comment or feedback; (2) additional evidence or information; (3) the names of additional witnesses or a request for the collection of other information by the IA; and/or (4) questions to be asked (at the discretion of the IA) of the other party(ies). If a party's response to the Draft Investigation Report includes new evidence/information/witness names that were not provided to the IA during the original investigation, the party must submit a written explanation as part of the response as to why the evidence/information/witness names were not originally provided to the IA. The IA has the discretion to disregard or accept new information/evidence/witness names. A party may not withhold information/evidence/witness names, refuse to answer question(s) or participate in the original investigation and then provide the information for the first time at party review.

A party's written response, if any, will be shared with all other parties and incorporated in the investigation report as an exhibit. If the party does not have access to the information, the party may submit a description of such evidence in their response; the party must provide such description in the response in order for the evidence to be considered at the hearing, absent good cause.

While it is the IA's responsibility to undertake a thorough search for relevant facts and evidence and to gather evidence sufficient to reach a determination regarding responsibility, the IA must conclude the investigation within a reasonably prompt time frames and without the power of subpoena.

- 3.14 At the conclusion of the review and respond period, the IA will determine if the Draft Investigation Report should be amended with any new information or evidence. If necessary, the IA may pursue additional investigative steps.

CR/T9 will forward the Investigation Report, as amended (if applicable), along with the exhibits and any other information directly related and relevant to the allegations, to the Office of General Counsel (OGC) for legal review. After the

report is approved, the IA will finalize the Investigative Report and submit it to the parties and to the DA for decision-making and sanctions.

4. THE DESIGNATED ADMINISTRATOR'S DECISION

- 4.1 The Respondent is presumed to not have engaged in prohibited conduct until the DA finds that there is sufficient evidence based on a preponderance of the evidence to find that Respondent has violated *Texas A&M System Regulation 08.01.01* and/or *Texas A&M University Rule 08.01.01.M1*.
- 4.2 A decision on responsibility by the DA does not constitute an employment action with respect to faculty and non-faculty employees. Any sanction against an employee, imposed as a result of a substantiated finding, will constitute an employment action.

Procedures Governing the Resolution of All Sexual Harassment and Sex-based Misconduct Allegations

- 4.3 The DA will (1) review the unredacted Final Investigation Report, the documentary evidence, and any other relevant information; and, (2) conduct a live hearing to allow the parties to question witnesses, submit evidence or information, and to allow the parties' advisors to cross-examine other parties or witnesses. Thereafter, the DA will announce a decision, based on the preponderance of the evidence, as to (a) whether or not the alleged conduct occurred; and b) whether it is substantiated, unsubstantiated, or there is insufficient information to substantiate that the Respondent violated [*Texas A&M System Regulation 08.01.01*](#) or [*Texas A&M University Rule 08.01.01.M1*](#). If applicable, the DA will also announce a decision as to whether Respondent violated any other University regulation, code, policy, SAP or rule.

If the DA determines that any regulations, policies, rules, SAPs, or codes have been violated, the DA will consider any information about impact, mitigation, aggravation, and the Respondent's character and announce a decision about sanctions.

- 4.4 The DA will simultaneously notify the parties in writing of the decision on responsibility and sanctions. The DA will include the following in the decision:
- a finding for each allegation as to whether the conduct occurred
 - a finding of responsibility for each allegation: substantiated, unsubstantiated, or there is insufficient information to substantiate that the Respondent violated *Texas A&M System Regulation 08.01.01* and/or *Texas A&M University Rule 08.01.01.M1*. If it was alleged that any other System regulations or University rules, SAPs, codes, or policies were violated, there will be a statement of responsibility as to these allegations as well
 - sanctions, if applicable
 - a rationale for each finding and the sanctions, if applicable

- an explanation of how the University weighted the evidence and the information in the Investigation Report as well as how the standard of proof was applied.
- instructions for appealing the decision and/or sanctions.

Procedures Governing the Resolution of Allegations Other than Sexual Harassment and Sex-based Misconduct

4.5 The DA will (1) review the unredacted Final Investigation Report, the documentary evidence, and any other relevant information; and, (2) draft a decision based on the preponderance of the evidence. The DA will include the following in the draft decision:

- a finding for each allegation as to whether the conduct occurred
- a finding of responsibility for each allegation: substantiated, unsubstantiated, or there is insufficient information to substantiate that the Respondent violated *Texas A&M System Regulation 08.01.01* and/or *Texas A&M University Rule 08.01.01.M1*. If it was alleged that any other System regulations or University rules, SAPs, codes, or policies were violated, there will be a statement of responsibility as to these allegations as well
- sanctions, if applicable
- a rationale for each finding and the sanctions, if applicable
- an explanation of how the University weighted the evidence as well as how the standard of proof was applied.
- instructions for appealing the decision and/or sanctions.

If the DA has substantial doubts about the thoroughness, fairness, and/or impartiality of the investigation, the DA may refer the matter back to the IA with further instructions, which could include the appointment of a different IA.

4.6 The DA will 1) forward its draft decision to OGC, who will conduct a legal review in accordance with *Section 4.4.1 of System Regulation 08.01.01*, and 2) consult, as needed, with respect to sanctioning. Once the DA receives OGC's legal review, the DA will finalize the decision and forward Notice of the DA's decision simultaneously to the parties, the IA, and any other University official with a need to know of the decision and/or sanctions.

5. SANCTIONING

5.1 In determining the appropriate sanctions, many factors may be considered, including but not limited to:

- The expressed wishes of the Complainant(s)
- The nature of the conduct
- The impact of the conduct on the Complainant(s)

- The impact of the conduct on the University community and the need to protect the safety of the University community
- Prior disciplinary history of the Respondent
- Whether the Respondent has accepted responsibility for the conduct
- The necessity of any specific action in order to eliminate the discrimination, harassment, and/or retaliation and prevent its recurrence as well as the need to remedy its effects on the Complainant(s) or other University community members, and/or
- Any other mitigating, aggravating, or compelling circumstances.

Sanctioning for Employees

- 5.2 If an employee is found to have engaged in sexual harassment or sex-based misconduct, the sanction will be termination of employment.

If an employee is found to have engaged in conduct prohibited by *Texas A&M System Regulation 08.01.01* and/or *Texas A&M University Rule 08.01.01.M1* (other than sexual harassment and/or sex-based misconduct), the DA may assign appropriate sanction(s) which may have educational, restorative, punitive, and rehabilitative components. Examples of sanctions may include, but are not limited to, written warning or reprimand, required training and/or attendance at counseling, “no contact” restrictions, probation, suspension, and termination.

If the employee is found responsible for violating any other rule, policy, SAP, code, or regulation, the DA may assign appropriate sanction(s) or may refer the sanctioning to any other appropriate university administrator.

Sanctioning for Students

- 5.3 If a student is found responsible for sexual harassment or sex-based misconduct, the student will be sanctioned in accordance with [the Student Title IX Cumulative Sanctioning Matrix](#).

If a student is found responsible for engaging in any other form of conduct prohibited by *Texas A&M System Regulation 08.01.01* and/or *Texas A&M University Rule 08.01.01.M1*, or if the student is found responsible for violating any other University Rule or System regulation, the DA will assign appropriate sanctions which may have educational, restorative, and rehabilitative components and/or may place a student in a probationary or review status or separate the student from the university.

Student Sanctions may include:

- 5.3.1 *Expulsion*: Separation of the student from the University whereby the student is not eligible for readmission to this University.
- 5.3.2 *Suspension*: Separation of the student from the University for a definite period of time. The student is not guaranteed readmission at the end of such period of time, but is guaranteed a review of the case and a decision

regarding eligibility for readmission. The suspension takes effect when the appeal for the offense is exhausted, waived or time limit has passed. Suspensions may be implemented in one of two ways: immediate implementation of suspension or deferred implementation of suspension. The sanction of suspension may be placed in deferred status. If the student is found in violation of any University rule during the time of deferred suspension, the suspension takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be applied. A student who has been issued a deferred suspension sanction is deemed “not in good standing” with the University.

Not in good standing: A student who is not in good standing is subject to the following restrictions:

- Ineligibility to hold an office in any student organization recognized by the University or to hold any elected or appointed office of the University.
- Ineligibility to represent the University in any way, including representing the University at any official function, intercollegiate athletics or any forms of intercollegiate competition or representation. This includes events taking place both on and off of the University campus.
- Ineligibility to receive a University administered scholarship when the length of the period of not in good standing is greater than one semester. Some scholarships adhere to more strict guidelines, and, therefore, ineligibility may result from a lesser length of not in good standing. This sanction implies a serious offense and must be uniformly applied by the office administering the scholarship upon notification by CR/T9.
- Additional restrictions or conditions also may be imposed, depending on the nature and seriousness of the misconduct.

At the end of the suspension period, the student is eligible for reenrollment. Actual admission to the University will be determined by the academic rules in place at the time of application for reenrollment.

5.3.3. *Conduct Probation:* An official warning that the student’s conduct is in violation of Texas A&M University regulations, policies, rules, codes, or SAPs, but is not sufficiently serious to warrant expulsion or suspension. A student on conduct probation is deemed “not in good standing” with the University. If there is a finding of responsibility for subsequent violations of the University’s regulations, policies, rules, codes, or SAPs during this period of time, more severe sanctions may be administered.

5.3.4. *Conduct Review:* An official warning that the student’s conduct is in violation of Texas A&M University regulations, policies, rules, codes, or SAPs, but is not sufficiently serious to warrant expulsion, suspension, or conduct probation. A student on conduct review shall have their conduct under review for a specified period of time. This sanction may require

regular meetings with an appropriate official to ascertain and evaluate compliance with student rules. Additional restrictions or conditions also may be imposed, depending on the nature and seriousness of the misconduct. Students placed on this sanction remain in good standing with the University. If there is a finding of responsibility for subsequent violations of regulations, policies, rules, codes, or SAPs during this period of time, more severe sanctions may be administered.

- 5.3.5. *Restrictions*: The withdrawal of specified privileges for a definite period of time, but without the additional stipulations contained in the imposition of a sanction which results in a student being not in good standing. The restrictions involved will be clearly defined.
- 5.3.6. *Restitution*: A payment for financial injury to an innocent party in cases involving theft, destruction of property or deception. The assessed costs to be paid may be in addition to receipt of any of the above sanctions.
- 5.3.7. *Community/University Service*: A student may be offered an opportunity to complete a specified number of hours of Community/University Service. The type of Community/University Service must be approved by the Respondent's CR/T9 Case Manager.
- 5.3.8. *Educational Requirements*: A provision to complete a specific educational requirement. Such educational requirements may include, but are not limited to, completion of an alcohol education workshop, a diversity awareness workshop, essays, reports, reflective writing assignments, etc.
- 5.3.9. *Letter of Enrollment Block*: A letter stating that the student may not reenter Texas A&M University without prior approval through the Office of Civil Rights and Title IX, the Offices of the Dean of Student Life or the Vice President for Student Affairs if enrollment has been blocked for a previous student conduct problem.
- 5.3.10. *Letter of Reprimand*: A letter that makes a matter of record any incident that reflects unfavorably on the student or the University.
- 5.3.11 *Campus Housing Sanctions*: The occupants of each residence hall, by majority vote, have the power to establish additional "in house" rules as approved by the Department of Residence Life. Generally, "in house" rule infractions are handled by resident life staff.
 - 5.3.11.1 *Loss of Campus Housing Privilege*: Removal from university housing for conduct reasons.
 - 5.3.11.2 *Deferred Loss of Campus Housing Privilege*: The sanction of Loss of Campus Housing Privilege may be placed in deferred status. If

a student is found in violation of any University rule during the time of the deferred sanction, removal from housing takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be taken. In addition, a student is ineligible to hold an elected or appointed office in any affiliated housing organization. This includes but is not limited to the following offices/positions: president, vice president, secretary, treasurer, RHA delegate.

5.3.11.3 *Campus Housing Probation*: An official notice that the student's conduct is in violation of residence hall rules, University Apartments rules and/or University rules and that more stringent student conduct sanctions, including removal from housing, may result if future violations occur. In addition, a student is ineligible to hold an elected or appointed office in any affiliated housing organization. This includes but is not limited to the following offices/positions: president, vice president, secretary, treasurer, RHA delegate.

5.3.12 In addition to any of the sanctions listed in this section, members of the Corps of Cadets are subject to disciplinary action in accordance with *The Standard*.

6. APPEALS

Appeals of dismissals of a complaint, hearing decision, and/or sanction related to an allegation of sexual harassment and sex-based misconduct.

6.1 The Appellate Authority (AA) is based on the status of the respondent. See *Section 1.4* above.

Appellate authorities shall not have had any previous involvement and/or participation in the investigation and/or decision pertaining to an appeal under review.

6.2 Both a Complainant and a Respondent may appeal the DA's decision or dismissal of a complaint. The bases for appeal are limited to:

- (1) A procedural irregularity that affected the outcome;
- (2) New evidence, not reasonable available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter. The new evidence must be provided at the time of appeal through the designated mechanism for filing an appeal;
- (3) 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 of the matter;

(4) The appropriateness or severity of the sanctions.

6.3 All appeals must be submitted in writing and must include a statement outlining the bases for appeal and any evidence that supports the appeal. Appeals must be filed at the location and within the time frame stated in the DA's written notice of the decision.

Decisions made by the DA shall not be final until an appeal deadline is passed, or when the appeal process is exhausted, or when all parties choose not to appeal.

To be a valid appeal, the appeal must:

- 1) be filed at the location and within the time frame stated in the DA's written notice;
- 2) identify one of the bases for appeal listed in Section 6.2 above, and
- 3) provide credible information or evidence substantiating the identified bases for appeal.

If the AA determines that an appeal is not valid, the AA will provide simultaneous notice to the parties and CR/T9 that no valid appeal was filed and that the decision of the DA is final and the case is closed.

6.4 If a timely and valid appeal is filed by either party, the other party will be notified as soon as practicable thereafter by the AA. The parties will be given three (3) business days to review the appeal and submit a written response a) that provides support for or challenges the decision by the DA, and b) that responds to the appeal bases submitted by the appealing party. Any written response must be submitted to the AA.

6.5 The AA will render a written decision that includes a rationale for the decision as to each of the grounds appealed. To the extent reasonably possible:

6.5.1 For student respondents: The AA will provide the written decision simultaneously to the parties and CR/T9 within ten (10) business days following the three (3) business day review deadline.

6.5.2 For employee or third-party respondents: The AA will provide a draft decision to the Texas A&M University System Office of General Counsel for review within five (5) business days following the three (3) business day review deadline. System Office officials will provide its review of the draft decision to the AA within five (5) business days. To the extent possible, the AA will provide a final written decision simultaneously to the parties and CR/T9 within five (5) business days of receipt of the review from the System Office.

- 6.5.3 CR/T9 will provide appropriate notifications regarding sanctions for substantiated violations to supervisors, the registrar's office, or other applicable University entities.
- 6.5.4 Circumstances may warrant extensions to the timeframes outlined in this section. The AA may send an extension request to the office or individual who appointed them with a rationale for an extension. If the extension is granted, the AA will notify the parties and CR/T9.
- 6.6 The AA will render one or more of the following written decisions:
- (1) **Affirm** the DA's decision on responsibility and, if applicable, the sanctions. There are no relevant issues of concern related to the ground(s) of the appeal, and, therefore, the decision is affirmed and final.
 - (2) **Remand** the complaint back to the DA because new evidence, not reasonably available at the time the determination regarding responsibility or dismissal was made appears to be relevant and could have significantly affected the outcome of the decision on responsibility, dismissal of the complaint, or the sanctions. The DA will reconvene the hearing for the limited purpose of considering the new evidence. The DA will issue a new decision in accordance with Section 4. The new decision of the DA may be appealed by the parties in accordance with the procedures outlined in Section 6.
 - (3) **Remand** the complaint back to the DA with an instruction to correct the procedural error or omission. If the procedural error occurred in the investigation phase, the DA will instruct the IA to correct the procedural error or omission and amend the Investigative Report, as appropriate. The IA will then submit the Amended Investigative Report to the parties for review and response in accordance with Sections 3.15 and 3.16, and then to the DA for a new decision in accordance with Section 4. If the procedural error occurred in the resolution phase, the DA will correct the procedural error or omission and then issue a new decision in accordance with Section 4. The new decision of the DA may be appealed by the parties in accordance with Section 6 herein.
 - (4) **Remand** the complaint to 1) CR/T9 or 2) System Ethics and Compliance Office (SECO) with the instruction to remedy a bias by the IA or DA or the Title IX Coordinator.

If bias was present in the IA, CR/T9 will appoint a new IA to review the investigation, collect additional evidence or information as appropriate, and follow the investigation requirements as outlined in *Section 3*. A new report will be written and provided to the DA for a new hearing.

If the bias was present in the DA, CR/T9 will appoint a new DA to re-hear the case with the existing investigation.

If the bias was present in the Title IX Coordinator, SECO will appoint a new staff member to address the influence of the Title IX Coordinator on the case.

(5) **Modify** the decision on sanctions because the sanctions given were inappropriate or disproportionate to the severity of the conduct after considering all the circumstances. The AA will impose new sanctions, which are final.

6.7 The appeal will be confined to a review of the record from the investigation and any relevant evidence, as well as the DA's decision as related to the grounds for appeal. The appeal does not create an entitlement to a new investigation.

6.8 If both parties file a valid appeal, the AA will review both appeals and will render decisions accordingly.

6.9 The decision of the AA is considered final and binding on all involved parties.

Appeals of dismissals of a complaint, decision, and/or sanction not related to an allegation of sexual harassment and sex-based misconduct.

6.10 There are no appeals of a dismissal of a complaint, a decision, and/or a sanction that is not related to an allegation of sexual harassment or sex-based misconduct except as authorized by [System Regulation 08.01.01, Section 4.5.2](#)

7. MISCELLANEOUS PROVISIONS

7.1 A Respondent's voluntary intoxication is never an excuse for or a defense to conduct prohibited by *Texas A&M System Regulation 08.01.01* and/or *Texas A&M University Rule 08.01.01.M1*, and it does not diminish the Respondent's responsibility to determine that the other person has given consent and has the capacity to do so.

7.2 The University will make every reasonable effort to comply with the timelines contained in the relevant System and University regulations, rules, and procedures. However, extensions may be obtained by the IA, DA, or AA, as appropriate under the circumstances. Circumstances that warrant an extension may include, but are not limited to:

- Temporary unavailability of the Complainant(s), Respondent(s) or witnesses;
- Delays in issuance and/or receipt of information to or from the IA;
- Temporary unavailability of the IA, DA, or AA due to illness, family needs or professional commitments;
- Holidays or other periods when the Complainant, Respondent, witnesses, or other University Employees may be unavailable; and/or
- New allegations, new evidence, new witnesses, or any other fact or circumstance that would require further investigation.

- 7.3 All requests for extensions must be justified in writing and shall be sent by the IA, DA, or AA to the Office of Risk, Ethics, and Compliance for review and approval by the Chief Risk, Ethics, and Compliance Officer or designee. CR/T9 will simultaneously notify the Complainant and Respondent in writing of any extensions and the reason for the extensions.
- 7.4 The University's disclosure of information related to an investigation, the DA's decision and/or the sanctions rendered under this SAP will be governed by the provisions of the Family Educational Rights and Privacy Act (FERPA), the Texas Public Information Act (TPIA), the Texas Education Code Section 51.971, and other applicable confidentiality laws.

8. INTERIM REMOVALS OF STUDENTS

- 8.1 A student may not be expelled or suspended prior to a decision of responsibility for a violation(s) of a university rule, policy, regulation, code, or SAP except as provided below.

The Dean of Student Life may remove a student from an education program or activity on an emergency basis only after an individualized safety and risk analysis has determined that the student is an immediate threat to the physical health or safety of any other student or individual arising from the allegations. The Dean of Student Life must provide the removed student with notice and opportunity to challenge the decision immediately following the removal. Upon being removed, the removed student must be granted the opportunity for a hearing within five (5) business days 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.

- 8.2 During the interim removal, a student may be denied access to campus housing and/or the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible.
- 8.3 The interim removal does not replace the investigation and resolution process. The investigation and resolution process shall proceed as outlined in this SAP, except that the timelines referenced in this SAP shall not be followed and the allegations will be resolved as soon as possible.

9. INTERIM ADMINISTRATIVE ACTIONS FOR EMPLOYEES

- 9.1 In accordance with University rules and SAPs, CR/T9 may request that an employee be placed on paid leave during the investigation and resolution process. CR/T9 may also issue interim restrictions to an employee, which include, but are not limited to, contact restrictions; representation of the university; "no trespass" orders, etc. Such interim actions will remain in place as specified in a notice to the employee or until the allegations are resolved.

Related Statutes Policies, Regulations, and Rules

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

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

[University Rule 08.01.01.M1 *Civil Rights Compliance*](#)

[University Rule 12.01.99.M1 *University Statement on Academic Freedom, Responsibility, Tenure, and Promotion*](#)

[Standard Administrative Procedure 12.99.99.M0.01 *Faculty Grievances Procedures Not Concerning Questions of Tenure, Dismissal or Constitutional Rights*](#)

[System Regulation 32.02.02 *Discipline and Dismissal of Nonfaculty Employees*](#)

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

Contact Office

[Office of Civil Rights and Title IX](#)