

UNIVERSITY RULE

08.01.01.M1 Prohibited Conduct: Discrimination, Harassment, Complicity, and Related Retaliation based on a Protected Characteristic

Approved February 29, 2012

Revised September 16, 2016

Revised August 5, 2019

Next scheduled review: August 5, 2024

Rule Summary

Six core values are at the heart of what Texas A&M University is all about: loyalty, integrity, excellence, leadership, respect and selfless service. Consistent with these values, the University reaffirms its commitment to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community.

Texas A&M University bars Students, Employees and Third Parties from engaging in discrimination and/or harassment on the basis of race, color, sex, gender identity, age, religion, disability, national origin, sexual orientation, genetic information or veteran status. In addition, acting in complicity with another who engages in any of these forms of Prohibited Conduct, or retaliating against a person who participates in protected activity, is also prohibited.

Definition of Prohibited Conduct

Prohibited Conduct under this Rule includes discrimination, harassment (including non-consensual sexual contact, sexual assault, sexual exploitation, dating abuse/violence, domestic abuse/violence, stalking, quid pro quo and hostile environment sexual harassment), complicity, and retaliation.

Official Rule/Responsibilities

1. RULE AGAINST PROHIBITED CONDUCT

- 1.1 Students, University Employees and Third Parties shall not engage in Prohibited Conduct, including acting in complicity with another who engages in Prohibited Conduct, or

- retaliating against a person who reports or participates in the reporting or investigation of Prohibited Conduct.
- 1.2 This Rule applies to all University 1) Students, 2) Employees, including all full-time and part-time faculty¹, full-time and part time staff, temporary employees, professional research staff, and post-doctoral fellows (“Employees”); and, 3) contractors, vendors, visitors, volunteers, guests or other third parties (“Third Parties”).
- 1.3 This Rule applies to acts of “Prohibited Conduct” committed by Students, Employees or Third Parties when:
- (a) The conduct occurs on University grounds or other property owned or controlled by the University;
 - (b) The conduct occurs in the context of a University employment or education program or activity, including, but not limited to, University-sponsored education abroad, research, on-line, or internship programs; or
 - (c) The conduct occurs outside the context of a University employment or education program or activity but creates a hostile environment for Students, Employees, or Third Parties while on University grounds or other property owned or controlled by the University or in any University employment or education program or activity. The Assistant Vice President and Title IX Officer or designee shall decide whether this Rule shall be applied to such conduct on a case by case basis. The decision of the Assistant Vice President and Title IX Officer is final and unappealable.
- 1.4 Some conduct, while inappropriate, does not rise to the level of Prohibited Conduct. These behaviors will be addressed by the appropriate disciplinary authority (e.g., Department Head, Student Conduct, Human Resources, etc.) under rules or regulations other than this rule.
- 1.5 This Rule applies to all reports of Prohibited Conduct received by the University on or after August 5, 2019.

2. REPORTING OBLIGATIONS

Except for (1) employees identified as *Confidential Employees* in this Rule, and/or (2) employees who have received a reporting exemption from the Office of Risk, Ethics, and Compliance (OREC) for IRB-approved research, all other TAMU Employees who experience, observe, or become aware of Prohibited Conduct must promptly report all known information, including the identities of witness and involved parties, to the University as set forth below. Students workers are not required to report Prohibited Conduct if the student worker experiences, observes or becomes aware of the Prohibited Conduct outside the context of their student worker employment. Employees who become aware of Prohibited Conduct should advise the reporter (1) that they cannot keep reports of Prohibited Conduct confidential, and (2) that they are required to report the Prohibited Conduct to the University. Students, staff, and faculty should be aware that sharing information about Prohibited Conduct with an employee of the University, other than an employee

¹ Although they are not employees, affiliated faculty will be treated as faculty for the purpose of this rule and 08.01.01.M1.01

identified as a Confidential Employee in this Rule, will result in that employee sharing the information with an appropriate University official for review and investigation.

Students and Third Parties are strongly encouraged (but not required) to report Prohibited Conduct.

Allegations of sexual or gender-based harassment, sexual assault, sexual exploitation, nonconsensual sexual contact, stalking, domestic violence or dating violence disclosed to Confidential Employees will not be reported to the University, except as required by law. For example, licensed healthcare providers at the Student Health Services report de-identified statistics regarding this conduct to the University in compliance with the Clery Act.

Confidential Employees are available to support both Complainants and Respondents.

2.1 Reporting to the University

Reports that a Student, Employee or a Third Party has engaged in Prohibited Conduct should be made to the Department of Civil Rights and Equity Investigations (CREI), as follows:

Jennifer Smith
Assistant Vice President and Title IX Officer
Medical Sciences Library
202 Olsen Blvd, Suite 007
College Station, TX 77843
(979) 458-8407
civilrights@tamu.edu

Reports that the Texas A&M President, or an employee who reports directly to the President, has engaged in Prohibited Conduct should be made to the Texas A&M System Ethics and Compliance Office, as follows:

Texas A&M System Ethics and Compliance Office
301 Tarrow, 6th floor
College Station, TX 77843
(979) 458-6120
Civilrightsreporting@tamus.edu

2.2 Additional Options for Reporting to the University

- (a) Individuals wishing to submit an anonymous report may do so through [Tell Somebody](#), an electronic reporting option. Anonymous reporting may limit the University's ability to respond to the allegation.

Individuals may, but are not required to, report Prohibited Conduct to their direct supervisor, who should immediately report the information to CREI, as follows:

Jennifer Smith
Assistant Vice President and Title IX Officer
Medical Sciences Library
202 Olsen Blvd, Suite 007
College Station, TX 77843
(979) 458-8407
civilrights@tamu.edu

2.3 Reporting to Law Enforcement

Notwithstanding the mandatory reporting requirement for employees in section 2, anyone may report matters that they believe are criminal to the appropriate local law enforcement agency. A Complainant may request assistance from CREI in notifying law enforcement authorities and always has the right to decline to notify law enforcement.

A report to law enforcement, even to the University Police Department (UPD), is separate from a report to the University under this Rule. An individual wishing to simultaneously pursue a law enforcement investigation and a University resolution of Prohibited Conduct should make a report to both entities.

- 2.4 Employees receiving a report under this Rule may not disclose the identity of the Complainant to any law enforcement authority unless:
- (a) expressly authorized by the Complainant;
 - (b) imminent threat to health or safety exists; or
 - (c) required by law.
- 2.5 Although a report of Prohibited Conduct may be made at any time, regardless of when the alleged conduct occurred, a report should be filed as soon as possible after the action that caused the report. Prompt reporting assists investigators in the collection and preservation of evidence.
- 2.6 Individuals may file a complaint at any time with any local, state or federal civil rights office, including, but not limited to, the Equal Employment Opportunity Commission, the Texas Workforce Commission's Civil Rights Division, the U.S. Department of Education's Office of Civil Rights and the U.S. Department of Justice.
- 2.7 The filing of a complaint will not stop, delay, or affect pending personnel or disciplinary actions. This includes, but is not limited to, performance evaluations or disciplinary actions related to an employee or student who is not performing at acceptable levels or standards or who has violated System policies, regulations, or University rules.
- 2.8 When a student reports, in good faith, experiencing or witnessing an incident of sexual harassment, sexual assault, sexual exploitation, dating abuse/violence, domestic abuse/violence, or stalking, the University will not take disciplinary action against that student for violations of the Student Conduct Code occurring at or near the time of the incident reported. The University may, however, investigate to determine whether a report of an incident of sexual harassment, sexual assault, sexual exploitation, dating

abuse/violence, domestic abuse/violence, or stalking was made in good faith. The amnesty given in this section does not apply to a student who reports the student's own commission or complicity in the commission of sexual harassment, sexual assault, dating abuse/violence, domestic abuse/violence, or stalking. The decision to grant or deny amnesty is final and cannot be appealed or revoked.

3. UNIVERSITY RESPONSE TO REPORTS OF PROHIBITED CONDUCT

The University's response to allegations of Prohibited Conduct will be 1) prompt and equitable; 2) intended to stop and prevent the recurrence of any harassment; and 3) intended to remedy its discriminatory effects, as appropriate. A substantiated allegation of prohibited conduct will result in disciplinary action, up to and including termination of employment or separation from the University. Third Parties who commit Prohibited Conduct may have their relationships with the University terminated and/or their privileges of being on University premises withdrawn.

The procedures for responding to allegations of Prohibited Conduct committed by Students, Employees and

Third Parties are detailed in SAP *08.01.01.M1.01, Investigation and Resolution of Allegations of Prohibited Conduct Against Students, Employees and Third-Parties.*

4. WHERE THE RESPONDENT HAS MULTIPLE ROLES AT THE UNIVERSITY: If the Respondent has multiple roles, such as when the Respondent is both a student and an employee, the Chief Risk, Ethics, and Compliance Officer will consult with other relevant University Officials and then determine which procedure(s) to follow in the investigation and resolution of the allegations of Prohibited Conduct as well as other policy violations. The Chief Risk, Ethics, and Compliance Officer will consider the known facts and circumstances, including which role predominates in the context of the Prohibited Conduct.

Related Statutes, Policies, or Requirements

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

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

[University SAP 08.01.01.M1.01, *Investigation and Resolution of Allegations of Prohibited Conduct Against Students, Employees and Third-Parties*](#)

Contact Office

Department of Civil Rights and Equity Investigations