

## Student Rules and Regulations Committee

Approved by President

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(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

### PROPOSAL

See attached proposal

### JUSTIFICATION

Attached you will find a proposed revision to Student Rule 47. This revision will align TAMU's student rules with final Violence Against Women Act regulations and TAMU System Reg 08.01.01 which was updated September 17, 2015.

A small committee worked on the rewrite of this rule. The committee was convened by Dr. Cynthia Hernandez and included: Dr. David W. Parrott, Division of Student Affairs, Mr. Jerry Brown, Office of General Counsel, Dr. Anne Reber, Division of Student Affairs, Ms. Kristen Harrell, Division of Student Affairs, and Ms. Annette Wallis, Office of Risk and Compliance. As part of this review, a draft was also shared with the Sexual Assault Survivor Services Committee who's membership includes representatives from the Women's Resource Center, Student Counseling Service, Student Health Services, CLEAR Office, the University Police Department, Residence Life, Multicultural Services, SARC, Memorial Student Center, Student Assistance Services as well as a graduate and undergraduate student representative. A draft was also shared with the Student Conduct Office and the Title IX Coordinators group which includes members from the TAMU agencies, HSC, and branch campuses. Comments and suggestions were taken and incorporated as appropriate.

### PROPOSED BY

Name: Dr. Cynthia Hernandez  
Phone: 845-4728  
E-Mail: Cynthia.Hernandez@tamu.edu  
Department: Office of the Vice President for Student Affairs  
Mail Stop: 1256  
Date: January 11, 2016

Approved by the Student Rules and Regulations Committee on 1/15/16

Approved by the Faculty Senate on 3/21/16

Approved by the President on 4/5/16

*Present Rule 47 with additions in **bold red font** and deletions ~~struck~~*

(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

## ~~47. Sexual Harassment and Related Retaliation~~

~~(Revised: 2013)~~

~~The decision as to which procedure to utilize for a grievance filed by a student shall be made solely by the university and shall be based on the fact pattern of each particular case. Each grievance shall be directed to a specific procedure and shall be accorded only one opportunity to be adjudicated unless the appeal body remands for further review.~~

~~NOTE: Faculty, staff, students, or third parties may file a grievance using Student Rule 47.~~

~~Texas A&M University strives to maintain a work and educational environment free from discrimination, sexual harassment, and related retaliation in accordance with applicable federal and State laws. Individuals are encouraged to report all unwelcome conduct of a sexual nature and should not wait to report conduct of concern until it becomes severe, pervasive, or persistent harassment. University officials can take proactive steps to address conduct, perhaps prevent conduct from continuing or escalating, and/or to protect or otherwise assist the recipient of the conduct.~~

### ~~47.1 Definitions~~

#### ~~Sexual Harassment~~

~~Sexual harassment is a form of sex discrimination. Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature constitutes actionable sexual harassment when this conduct is so severe, persistent or pervasive that it explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work or educational performance, or creates an intimidating or hostile work or educational environment. The University will use a reasonable person standard to determine these elements.~~

~~Sexual harassment also includes sexual misconduct (non-consensual sexual intercourse and non-consensual sexual contact) and sexual exploitation.~~

~~Non-consensual sexual intercourse (See student rule 24.4.20.1—Sexual abuse)~~

~~The oral, anal, or vaginal penetration by a sexual organ of another or anal/vaginal penetration by any means against the victim's will or without his/her consent. An individual who is mentally incapacitated, unconscious, or unaware that the sexual abuse is occurring is considered unable to give consent. The type of force employed may involve physical force, coercion, intentional impairment of an individual's ability to appraise the situation through the administering of any substance, or threat of harm to the victim.~~

~~Non-consensual sexual contact (See student rule 24.4.20.2—Sexual Contact)~~

(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

~~Attempting or making sexual contact, including but not limited to inappropriate touching or fondling, against the person's will, or in circumstances where the person is physically, mentally or legally unable to give consent.~~

~~Sexual exploitation (See student rule 24.4.2.3—Stalking and 24.4.18—Unauthorized recording)~~

~~Occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. For example, sexual exploitation could include such actions as secretly videotaping sexual activity, voyeurism, sexually based stalking and invasion of sexual privacy.~~

~~Sexual harassment occurs when a person is the recipient of conduct of a sexual nature where:~~

- ~~• Submission to or toleration of such conduct is made either explicitly or implicitly a term or condition of an individual's education (including co-curricular activities) or employment;~~
- ~~• Submission to or rejection of such conduct by an individual is used as the basis for academic, co-curricular, or employment decisions affecting the individual's welfare; or~~
- ~~• Such conduct has the purpose or effect of unreasonably interfering with an individual's welfare, academic or work performance, or creates an intimidating, hostile, offensive or demeaning education (including co-curricular activities) or work environment.~~

#### ~~47.2 Information and Consultation~~

~~Staff in the Offices of the Dean of Student Life (for students enrolled on the campus of the TAMU Law School: the Assistant Dean for Student Affairs; for students enrolled in a college/school on other campuses outside of Brazos County (TAMU Baylor College of Dentistry, College of Medicine, College of Pharmacy, College of Nursing, and School of Public Health): the Associate Dean for Student Affairs in each respective college/school) is available to serve as a resource to any individual who has a sexual harassment inquiry or complaint. These resource persons have information about applicable laws, university rules and procedures, resources (such as counseling, health services, etc.), options available for resolution of complaints, confidentiality requirements, and reporting options including local law enforcement and/or the Title IX Coordinator.~~

#### ~~47.3 Confidentiality~~

~~Persons gathering general information, seeking guidance, or filing a complaint may be concerned about the confidentiality of the information they are sharing. While the university wishes to create an environment in which individuals feel free to discuss concerns and make complaints, the university may be obligated to take action when its officials are informed that sexual harassment may be occurring. Although the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complainant regarding action by the university cannot be guaranteed, they will be protected to as great a degree as is legally possible. The expressed wishes of the complainant regarding confidentiality will be considered in the context of the university's obligation to act upon the charge and the right of the charged party to be informed about charges against him/her. If the individual does not disclose any identifying information about him/herself or any other~~

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~~party involved (e.g., names, department or unit) during the inquiry, response on the part of the University may be limited.~~

~~47.3.1 Reporting Confidentially Students may report confidentially through the Student Counseling Service (confidential reporting is done through student counseling services offered at each college/school on campuses outside of Brazos County. Referrals to counseling resources on these campuses can be requested through the Assistant Dean for Student Affairs at the TAMU Law School and the Associate Dean for Student Affairs at all other locations outside of Brazos County.) Without the student's consent, counselors in the Student Counseling Service are not required, nor may they report an incident that in any way identifies the student concerned.~~

### 47.4 Reporting to Law Enforcement

~~Individuals have the option of notifying law enforcement authorities including university and local police (for students enrolled on campuses outside of Brazos County, individuals have the option of notifying the local police in those jurisdictions.) An anonymous "Jane/John Doe" report can be filed with the police while deciding whether to pursue criminal charges. A criminal investigation may occur independent from a conduct proceeding on campus.~~

~~Law enforcement is able to help individuals understand the process of obtaining orders of protection, no contact orders, restraining orders, or similar lawful orders issued by the courts.~~

### 47.5 Filing a Complaint with the University

~~Once an individual discloses information about possible sexual harassment, sexual discrimination or related retaliation to an Official Contact (see 47.5.1) of the university, he/she will be considered to have filed a complaint with the university.~~

~~All employees are responsible for ensuring their work and educational environments are free from illegal discrimination, sexual harassment and related retaliation. When alleged or suspected discrimination, sexual harassment or retaliation is experienced or observed by or made known to an employee, the employee is responsible for reporting that information (TAMU System Regulation 08.01.01, section 2.1).~~

~~Students may contact the Dean of Student Life (students enrolled on the campus of the TAMU Law School will work directly with the Assistant Dean for Student Affairs at the TAMU Law School; students enrolled in colleges/schools on other campuses outside of Brazos County may contact the Associate Dean for Student Affairs in each respective college/school for assistance in initiating communication with the Official Contact of the University) for assistance in arranging the contact with the Dean of Faculties or the Human Resources, Policy & Practice Review Office. Incidents occurring with individuals across these areas of responsibility will be coordinated among the appropriate official contacts depending on the circumstances. The official contact will promptly notify the University's Title IX Coordinator if the complaint alleges sexual harassment, including sexual violence, sex discrimination, or related retaliation.~~

#### 47.5.1 Official Contact of the University

~~TAMU (All Brazos County campuses)~~

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(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

If the Alleged Offender is a:	Then the Official Contact is:
<del>Student (graduate, undergraduate, professional)</del>	<del><a href="#">Dean of Student Life</a></del>
<del>Student Employee (With the exception of the two student categories listed below, all other student employees will be considered students for the purpose of these procedures.)</del>	<del><a href="#">Dean of Student Life</a></del>
<del>Graduate Student or Postdoctoral Student working in academic affairs</del>	<del><a href="#">Dean of Faculties and Associate Provost</a></del>
<del>Graduate Student or Postdoctoral Students working in other areas</del>	<del><a href="#">Human Resources, Policy &amp; Practice Review</a></del>
<del>Non-Faculty Employee</del>	<del><a href="#">Human Resources, Policy &amp; Practice Review</a></del>
<del>Faculty Employee</del>	<del><a href="#">Dean of Faculties and Associate Provost</a></del>
<del>Third Party (not a student or employee but party's actions occurred on campus or at a university-sponsored activity)</del>	<del><a href="#">Human Resources, Policy &amp; Practice Review</a></del>

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### 47.5.2 TAMU (All campuses outside of Brazos County)

If you are a TAMU student on a campus outside of Brazos County, regardless of who the alleged offender may be, the following are official contacts for reporting:

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TAMU campuses	The Official Contact is:
Dallas	<del><a href="#">Regional Human Resources Director</a></del>
Houston	<del><a href="#">Regional Human Resources Director</a></del>
Kingsville	<del><a href="#">Human Resources Coordinator</a></del>
McAllen	<del><a href="#">Assistant Director SPH</a></del>
Round Rock	<del><a href="#">Director and Chief Human Resources Officer</a></del>
Temple	<del><a href="#">Director and Chief Human Resources Officer</a></del>

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TAMU Law School campus	Then the Official Contact is: <del><a href="#">Assistant Dean for Student Affairs</a></del>
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Houston Mays Business School at CityCentre	Then the Official Contact is: <del><a href="#">Facilities Coordinator</a></del>
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(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

~~47.6 Process for Complaint Filing and Resolution Where the Alleged Offender is a Texas A&M Graduate Student Employee, Non-Faculty Employee, Faculty Employee, or Third Party~~

~~47.6.1 The process if the alleged offender is a non-teaching or non-research graduate student employee, non-faculty employee, or third party is outlined in the University [Standard Administrative Procedure 08.01.01.M1.01—Investigation and Resolution of Complaints Against Non-Faculty Employees and Unrelated Third Parties for Illegal Discrimination, Sexual Harassment, or Related Retaliation Charges](#).~~

~~47.6.2 The process if the alleged offender is a teaching/research graduate student employee or a faculty employee is outlined in the University [Standard Administrative Procedure 08.01.01.M1.02—Investigation and Resolution of Complaints Against Faculty Members for Illegal Discrimination, Sexual Harassment, or Related Retaliation Charges](#).~~

~~47.7 Procedures for Complaint Filing and Resolution Where the Alleged Offender is a Texas A&M Student~~

~~47.7.1 Informal Complaint Procedures~~

~~47.7.1.1 Informal procedures, including mediation, will not be used to resolve sexual assault complaints.~~

~~47.7.1.2 Adopting informal procedures for resolving sexual harassment complaints does not mean that the institution does not take sexual harassment seriously. Informal procedures simply provide an alternative method for stopping sexual harassment.~~

~~Mediation may be utilized as a method for resolving the complaint informally. Mediation requires the good faith effort of all involved parties to arrive at a mutual agreement that resolves the complaint to everyone's satisfaction. If a complainant decides to handle the situation her/himself, and the harassment stops, there may not be an investigation. The outcome of informal procedures can range from no action, a simple apology, a promise not to do it again, or a transfer of either or both parties relating to on-campus housing, and/or academics. Generally, under informal procedures, the complainant may, at any time, elect to stop further administrative action by withdrawing the complaint. Staff is available to assist individuals with the informal complaint process.~~

~~47.7.2 Formal Complaint Procedures~~

~~47.7.2.1 Once an individual discloses information to an Official Contact of the university, he/she will be considered to have filed a complaint with the university. Complaints where the alleged offender is a Texas A&M student should be filed with the Dean of Student Life.~~

~~47.7.2.2 Upon receipt of a complaint, the University will exercise due diligence in determining what occurred and further action that may be warranted based on the information provided. The Dean of Student Life (for students enrolled on the campus of the TAMU Law School: the Assistant Dean for Student Affairs; for students enrolled in a college/school on other campuses outside of Brazos County (TAMU Baylor College of Dentistry, College of Medicine, College of~~

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~~Pharmacy, College of Nursing, and School of Public Health): the Associate Dean for Student Affairs in each respective college/school) will appoint an Investigating Authority. The Title IX Coordinator will be promptly informed if the complaint alleges sexual harassment or another form of sex discrimination.~~

~~47.7.2.3 The Investigating Authority, composed of one or more people, is responsible for all administrative activities required to conduct the investigation. The complaint will be investigated and a determination will be made as to whether further investigation or a student conduct conference is warranted. Refer to [Student Rule 26](#) for information about the student conduct process.~~

~~47.7.2.4 If further investigation or a conference is warranted, the alleged offender will be informed of the allegations, the identity of the complainant and the facts surrounding the allegations.~~

~~47.7.2.5 A representative from the Offices of the Dean of Student Life (for students enrolled on the campus of the TAMU Law School: the Assistant Dean for Student Affairs; for students enrolled in a college/school on other campuses outside of Brazos County (TAMU Baylor College of Dentistry, College of Medicine, College of Pharmacy, College of Nursing, and School of Public Health): the Associate Dean for Student Affairs in each respective college/school) shall notify the alleged offender and the complainant regarding the resolution of the complaint, including any sanctions. Refer to [Student Rule 27](#) for information about possible sanctions.~~

~~47.7.2.6 The University will respond to complaints in a prompt and equitable manner. Resolution of complaints will be completed within 60 days from the date of the original complaint. Reasonable extensions can be made for extenuating circumstances. These extensions are granted by the Title IX Coordinator or designee.~~

### ~~47.7.3 Appeals of Sanctions~~

~~Sanctions imposed as a result of an individual being found responsible for charges of sexual harassment may be appealed by the complainant and/or the alleged offender.~~

~~Students appealing sanctions shall be directed to the University Disciplinary Appeals Panel (students enrolled in a college/school on campuses outside of Brazos County (TAMU Law School, TAMU Baylor College of Dentistry, College of Medicine, College of Pharmacy, College of Nursing, and School of Public Health) shall be directed to the University Disciplinary Appeals Panel for that college/school.) Please refer to Student Rules [51](#) and [58](#) for more information about the University Disciplinary Appeals Process and Panel.~~

### ~~47.7.4 Protection of Complainant, Alleged Offender, and Others —~~

(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

~~47.7.4.1 The university will take prompt steps to protect the complainant as necessary, including taking interim steps before the completion of the investigation (including avoiding contact by allowing a change in class schedule, living arrangements as appropriate), or other actions as appropriate.~~

~~47.7.4.2 The university will take reasonable action to assure that the complainant, the alleged offender, and those providing witness statements on behalf of either party or supporting either party in other ways, are protected from retaliation. This action may come at any time during or following an investigation of a sexual harassment complaint. Instances of retaliation will be investigated and may result in further conduct charges.~~

~~47.7.4.3 In the event the allegations are not substantiated, reasonable steps will be taken to restore the reputation of the alleged offender if damaged by the proceedings. Instances where a complainant intentionally makes dishonest or malicious allegations will be investigated and may result in conduct charges.~~

~~47.7.4.4 To the extent possible, university proceedings will be conducted in a manner that protects the confidentiality of all parties involved.~~

#### ~~47.7.5 Complainant/Survivor Follow Up~~

~~In order to verify that the harassing behavior by a student or student employee remains stopped, the Dean of Student Life or designee (for students enrolled on the campus of the TAMU Law School: the Assistant Dean for Student Affairs; for students enrolled in a college/school on other campuses outside of Brazos County (TAMU Baylor College of Dentistry, College of Medicine, College of Pharmacy, College of Nursing, and School of Public Health) the Associate Dean for Student Affairs in each respective college/school) will follow up with the complainant/survivor.~~

#### ~~Free Speech~~

~~Texas A&M University respects the right of free speech guaranteed by the First Amendment of the Constitution and the principles of academic freedom. Constitutionally protected expression cannot be considered harassment under this policy. Each faculty member is entitled to full freedom in the classroom in discussing the subject which he or she teaches (see Committee A on Academic Freedom and Tenure in the Report on Freedom in the Classroom as stated in the AAUP Policy Documents and Reports). However, the right to free speech and principles of academic freedom are not absolute.~~

~~The offensive conduct underlying some incidents might be protected speech, but may still be in contradiction to Texas A&M University's commitment to civility, diversity, academic freedom, equality of opportunity and the valuing of human dignity. In these instances, constitutional rights will continue to be protected, but University staff will also exercise their right to speak and engage in educational dialogue with those engaged in these types of behaviors.~~

#### ~~Incidents not rising to the level of harassment~~

(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

~~In some instances offensive conduct might not be severe, persistent or pervasive to rise to the level of reasonably interfering or limiting an individual's participation in services, activities or privileges provided by Texas A&M University. Nevertheless, the offensive conduct could still be a violation of the Student Conduct Code or other published rules of the university. As stated in the Student Conduct Code, violations of the Student Conduct Code that are motivated by prejudice toward a person or group because of factors such as race, religion, ethnicity, disability, national origin, age, gender or sexual orientation may be assessed an enhanced sanction (see rule 24.5).~~

## **47. Investigation and Resolution of Complaints Against Texas A&M Students for Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking and Related Retaliation (SSDDSR)**

(Revised: 2016)

*The decision as to which procedure to utilize for a grievance filed by a student shall be made solely by the university and shall be based on the fact pattern of each particular case. Each grievance shall be directed to a specific procedure and shall be accorded only one opportunity to be adjudicated unless the appeal body remands for further review.*

Texas A&M University strives to maintain a work and educational environment free from discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking and related retaliation in accordance with applicable federal and State laws. Individuals are encouraged to report all unwelcome conduct of a sexual nature and should not wait to report conduct of concern until it becomes severe, pervasive, or persistent harassment. University officials can take proactive steps to address conduct, perhaps prevent conduct from continuing or escalating, and/or to assist the recipient of the conduct.

This grievance procedure is intended to describe the process for investigating and resolving complaints pertaining to Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking and Related Retaliation (SSDDSR) filed against a Texas A&M student.

NOTE: A complaint where the alleged offender is staff member or third party should be filed with Human Resources. The process if the alleged offender is a staff member or third party is outlined in the University Standard Administrative Procedure 08.01.01.M1.01 - Investigation and Resolution of Complaints Against Non-Faculty Employees and Unrelated Third Parties for Illegal Discrimination, Sexual Harassment, or Related Retaliation Charges.

A complaint where the alleged offender is faculty member should be filed with the Dean of Faculties and Associate Provost. The process if the alleged offender is a faculty employee is outlined in the University Standard Administrative Procedure 08.01.01.M1.02 - Investigation and Resolution of Complaints Against Faculty Members for Illegal Discrimination, Sexual Harassment, or Related Retaliation Charges



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**47.1 Information and Consultation**

Personnel are available to serve as a resource to any individual who has a SSDDSR inquiry or complaint. These resource persons have information about applicable laws, university rules and procedures, reporting options to local law enforcement, confidentiality and privacy, resources e.g., counseling, health services, and options available for resolution of complaints. The table below identifies personnel to contact for information and consultation.

<b>Location</b>	<b>Contact</b>
College Station campus	<u>Dean of Student Life</u>
Campus outside of College Station	Baylor College of Dentistry - <u>Associate Dean for Student Affairs</u> College of Medicine - <u>Associate Dean for Student Affairs</u> College of Pharmacy - <u>Associate Dean for Student Affairs</u> College of Nursing - <u>Associate Dean for Student Affairs</u> School of Public Health - <u>Associate Dean for Student Affairs</u> School of Law - <u>Assistant Dean for Student Affairs</u> Mays Business School (Houston) – <u>Dean of Student Life</u> Galveston – <u>Assistant Vice President for Student Affairs</u> Qatar – <u>Director of Student Affairs</u>
All other locations	<u>Dean of Student Life</u>

**47.2 Reporting to Law Enforcement**

Individuals have the option of notifying law enforcement authorities including university police and local police. Law enforcement is able to assist individuals understand the process of obtaining protective orders, bond conditions and any other safety precautions to take. A report can be filed with the local police department in the jurisdiction of where the crime occurred. For certain offenses, including sexual assault, individuals have the right to participate in the pseudonym program to have their identifying information confidential from all public files and records concerning the offense. A criminal investigation may occur independent from a conduct proceeding on campus.

**47.3 Confidential Reporting Options**

Students have the option to report confidentially. For purposes of reporting and maintaining public safety, university officials listed as confidential reporting options may share information about an incident in a way that does not identify the student(s) concerned.



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- Students enrolled on a Brazos County campus may report confidentially through the Student Counseling Service or Student Health Services.
- Referrals to confidential resources can be made for a student enrolled at other locations as follows:
  - Referrals at TAMU Law School can be made through the Assistant Dean for Student Affairs;
  - Referrals at campuses outside of Brazos County (TAMU Baylor College of Dentistry, College of Medicine, College of Pharmacy, College of Nursing, and School of Public Health) can be made through the Associate Dean for Student Affairs in each respective college/school.
  - Referrals at Mays Business School at City Centre – Houston can be made by contacting the Facilities Coordinator.
  - Referrals at Galveston – can be made by contacting the Assistant Vice President for Student Affairs
  - Referrals at the Qatar campus – can be made by contacting the Director of Student Affairs
- An anonymous “Jane/John Doe” report can be filed with the police while deciding whether to pursue criminal charges.

As defined in System Regulation 08.01.01, “Confidential” is a form of privileged communication which need not be disclosed in court as part of evidence, answered by a witness either in depositions or trial, or provided to the parties to a lawsuit or their attorneys. This is based on the inherent private relationship between the person communicating and the confidante’s occupation or relationship to that person.

#### 47.4 Procedures for Filing a Complaint

SSDDSR complaint procedures are initiated by filing a complaint with an Official Contact of the university. Students have the option to file a criminal complaint with law enforcement and a complaint with the university simultaneously.

As outlined in System Regulation 08.01.01, all employees are responsible for ensuring their work and educational environments are free from illegal discrimination, sexual harassment and/or related retaliation. When alleged or suspected discrimination, sexual harassment and/or retaliation is experienced or observed by or made known to an employee, the employee is responsible for promptly reporting that information. Students should also promptly report an incident.

Reports are filed with the Official Contacts below:

If the Alleged Offender is a student (graduate, undergraduate, or professional) on a:	Then the Official Contact is:
College Station campus	<u>Dean of Student Life</u>

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<b>Campus outside of College Station</b>	<b>Baylor College of Dentistry - <u>Associate Dean for Student Affairs</u></b> <b>College of Medicine - <u>Associate Dean for Student Affairs</u></b> <b>College of Pharmacy - <u>Associate Dean for Student Affairs</u></b> <b>College of Nursing - <u>Associate Dean for Student Affairs</u></b> <b>School of Public Health - <u>Associate Dean for Student Affairs</u></b> <b>School of Law - <u>Assistant Dean for Student Affairs</u></b> <b>Mays Business School (Houston) – <u>Dean of Student Life</u></b> <b>Galveston – <u>Assistant Vice President for Student Affairs</u></b> <b>Qatar – <u>Director of Student Affairs</u></b>
<b>All other locations</b>	<b><u>Dean of Student Life</u></b>

Any individual may contact the Title IX Coordinator.

### 47.4.1 Privacy of information

While the university wishes to create an environment in which individuals feel free to discuss concerns and make complaints, the university may be obligated to take action when its officials are informed that SSDDSR may be occurring.

Information shared with university personnel and officials who are not listed as confidential reporting options is considered private but not confidential. Although the confidentiality of information received, the privacy of the individuals involved, and the wishes of reporting party, complainant, and/or alleged offender cannot be guaranteed, they will be protected to as great a degree as is legally possible.

The university is committed to protecting the privacy of reporting parties, complainants, and alleged offenders. Given the sensitive nature of reports, information will be maintained in a secure manner and will only be disclosed to school officials who are responsible for handling the university's response and/or have a legitimate educational interest. The expressed wishes of the reporting party, complainant, and/or alleged offender regarding privacy will be considered in the context of the university's obligation to act upon the charge and the right of the charged party to be informed about charges against him/her.

47.4.1.1 The Official Contact or designee is responsible for evaluating requests for privacy. If the individual does not disclose any identifying information about him/herself or any other party involved (e.g., names, department or unit) during the inquiry, response on the part of the University may be limited.

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## 47.5 Investigations of Complaints

47.5.1 Once an individual discloses information to an Official Contact of the university, he/she will promptly notify the University's Title IX Coordinator.

47.5.2 The University will respond to complaints in a prompt and equitable manner. Reasonable extensions can be made for extenuating circumstances. These extensions are granted by the Title IX Coordinator or designee.

47.5.3 Upon receipt of a complaint, the University will exercise due diligence in determining what occurred and further action that may be warranted based on the information provided. The Official Contact or designee, will make an immediate assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. The Official Contact may consult with the University/local police department, the Title IX Coordinator or designee, and/or other campus officials to assist in this assessment. These steps may include interim protective measures to provide for the safety of the individual and the campus community.

Thereafter, the assessment may continue considering a variety of factors, such as the complainant's wish to pursue formal (47.6) or informal (47.7) procedures, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

47.5.4 The complaint will be reviewed to determine if there is sufficient information to proceed with an investigation or if additional information is needed. If the information is insufficient, the Official Contact or designee may, in consultation with the Office of General Counsel, conduct an inquiry into the circumstances of the complaint. If the information is sufficient, the Official Contact or designee will appoint an Investigating Authority.

47.5.5 The Investigating Authority, composed of one or more people, is responsible for all administrative activities required to conduct the investigation. The investigation is the follow through on a complaint to ascertain details and circumstances associated with the complaint. Investigations may result in charges, a form of alternative dispute resolution, or dismissal of complaint. This determination is made at the sole discretion of the Official Contact and/or designee. (See Student Rule 24.1.11)

## 47.6 Formal Resolution Procedures

47.6.1 If further investigation or a conduct conference is warranted, the alleged offender will be informed of the allegations, the identity of the complainant and the information surrounding the allegations.

(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

47.6.2 Student Conduct Proceedings. Refer to Student Rule 26 for information about the student conduct process. A preponderance of the information standard is used in all student conduct proceedings. Conduct proceedings will be conducted by university faculty/staff who are trained annually.

47.6.3 The Official Contact or designee shall notify, in writing, the alleged offender and the complainant regarding the resolution of the complaint, including any sanctions.

47.6.4 Sanctions. Refer to Student Rule 27 for information about possible sanctions.

47.6.5 Appeals

47.6.5.1 An appeal may be filed by the complainant and/or the student who has been assessed any conduct sanction(s) in cases of alleged or determined SSDDSR.

47.6.5.2 Students appealing sanctions shall be directed to the University Disciplinary Appeals Panel. Refer to Student Rules 51 and 58 for information about the Student Conduct Separation and Appeals Process.

#### 47.7 Informal Resolution Procedures

47.7.1 Informal procedures, including mediation, will not be used to resolve sexual assault complaints.

47.7.2 Adopting informal procedures for resolving complaints does not mean that the institution does not take sexual harassment, dating violence, domestic violence, stalking and related retaliation seriously. Informal procedures simply provide an alternative method for stopping these behaviors. Generally, under informal procedures, the complainant may, at any time, elect to file a formal complaint. Staff is available to assist individuals with the informal complaint process.

Mediation may be utilized as a method for resolving the complaint informally. Mediation requires the good faith effort of all involved parties to arrive at a mutual agreement that resolves the complaint to everyone's satisfaction. Examples of outcomes resulting from informal procedures include, but are not limited to, no contact orders, a commitment to refrain from similar behaviors in the future, etc.

#### 47.8 Protection of Complainant, Alleged Offender, and Others

47.8.1 Interim Measures. The university will take prompt steps to protect the complainant, the alleged offender, and other affected individuals as necessary, including taking interim protections or remedies before the completion of the investigation (such as avoiding contact by allowing a change in class schedule, on-campus living arrangements as appropriate, etc.), or other actions as appropriate.

47.8.2 Retaliation. The university will take reasonable action to assure that the complainant, the alleged offender, and those providing witness statements on behalf of either party or supporting either party in other ways, are protected from retaliation. This action may come at any time during or following an investigation of a SSDDSR complaint. Instances of retaliation will be investigated and may result in further conduct charges.

(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

47.8.3 In the event the allegations are not substantiated, reasonable steps will be taken to restore the reputation of the alleged offender if damaged by the proceedings. Instances where a complainant intentionally makes dishonest or malicious allegations will be investigated and may result in conduct charges.

47.8.4 To the extent possible, university proceedings will be conducted in a manner that protects the privacy of all parties involved.

#### 47.9 Resources

Counseling, health, mental health, advocacy, legal and other services are available to TAMU students both on-campus and in the community. Staff can assist with referring students to appropriate resources (see Section 47.1).

#### 47.10 Complainant Follow Up

In order to verify that the harassing behavior by a student or student employee has ceased, the Official Contact or designee will follow up with the complainant.

#### 47.11 Definitions

***Sexual Harassment*** A form of sex discrimination. Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature constitutes actionable sexual harassment when this conduct is so severe, persistent or pervasive that it explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work or educational performance, or creates an intimidating or hostile work or educational environment. Unwelcome means that an individual did not request or invite it and considers the conduct to be undesirable or offensive. Submission to the conduct or failure to complain does not always mean that the conduct was welcome. Sexual harassment may be quid pro quo ("this for that") or may constitute a hostile environment. Sexual harassment includes non-consensual sexual contact, sexual abuse, sexual exploitation, stalking, dating violence, and domestic violence when based on sex. The University will use a reasonable person standard to determine these elements.

Sexual harassment occurs when a person is the recipient of conduct of a sexual nature where:

- Submission to or toleration of such conduct is made either explicitly or implicitly a term or condition of an individual's education (including co-curricular activities) or employment;
- Submission to or rejection of such conduct by an individual is used as the basis for academic, co-curricular, or employment decisions affecting the individual's welfare; or

Such conduct has the purpose or effect of unreasonably interfering with an individual's welfare, academic or work performance, or creates an intimidating, hostile, offensive or demeaning education (including co-curricular activities) or work environment. Sexual harassment also includes sexual

(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

misconduct (non-consensual sexual intercourse and non-consensual sexual contact) and sexual exploitation.

***Sexual Abuse*** (See **Student Rule 24.4.20.1**) The oral, anal, or vaginal penetration by a sexual organ of another, use of another's sexual organ for oral, anal, or vaginal penetration, or anal/vaginal penetration by any means against the victim's will or without his/her consent (see "consent" in definitions). An individual who is mentally incapacitated, unconscious, or unaware that the sexual abuse is occurring is considered unable to give consent. The type of force employed may involve physical force, coercion, intentional impairment of an individual's ability to appraise the situation through the administering of any substance, or threat of harm to the victim.

***Sexual Contact*** (See **Student Rule 24.4.20.2**) Attempting or making sexual contact, including but not limited to inappropriate touching or fondling, without the person's consent (see "consent" in definitions), or in circumstances where the person is physically, mentally or legally unable to give consent.

***Sexual exploitation*** (See **Student Rule 24.4.20.3**) Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited. For example, sexual exploitation could include such actions as secretly videotaping sexual activity, voyeurism, sexually-based stalking, invasion of sexual privacy, and knowingly transmitting a sexually transmitted infection to another person.

***Stalking*** (See **Student Rule 24.4.2.3**) Any repeated conduct directed specifically at another person that would cause a reasonable person similarly situated (or a member of that person's family or household) to fear his/her safety. Such conduct includes, but is not limited to, following another person and acts that threaten or intimidate another person through fear of bodily injury or death of self or members of that person's family or household or an offense being committed against that person's property.

***Dating violence*** (See **Student Rule 24.1.7**) Any physical abuse or sexual misconduct, other than a defensive measure to protect oneself, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.

***Domestic violence*** (See **Student Rule 24.1.8**) Any physical abuse or sexual misconduct, other than a defensive measure to protect oneself, committed by a person who is or has been a current or former spouse of the complainant, person with whom the complainant shares a child in common, person who is cohabitating with or has cohabitated with the complainant as a spouse, a person similarly situated to a spouse of the complainant, or any other person against an adult or youth complainant who is a part of that person's household.

***Consent*** (See **student rule 24.1.6**) The term "consent," solely for the purposes of the Sexual Misconduct policy (see *rule 24.4.20*), means clear, voluntary, and positive verbal or non-verbal communication that all participants have agreed to the sexual activity.

- *Consent* must occur prior to or at the same time as the sexual activity.

(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

- *Consent* must remain clear, voluntary, and positive throughout the sexual activity.
- *Consent* must be given for the current sexual contact. The existence of a prior relationship or prior sexual activity does not automatically ensure *consent* for current or future sexual contact. There must be *consent* for each specific type of sexual contact throughout the sexual activity. *Consent* must be given by each participant involved.
- A person must be 17 years of age or older to be able to consent to sexual activity if the other participant(s) involved are more than three (3) years of age older than that person.
- A person who is incapacitated clearly and visibly is not able to give *consent* to sexual activity.

#### 47.12 Free Speech

Texas A&M University respects the right of free speech guaranteed by the First Amendment of the Constitution and the principles of academic freedom. Constitutionally protected expression cannot be considered harassment under this policy. Each faculty member is entitled to full freedom in the classroom in discussing the subject which he or she teaches (see Committee A on Academic Freedom and Tenure in the Report on Freedom in the Classroom as stated in the AAUP Policy Documents and Reports). However, the right to free speech and principles of academic freedom are not absolute.

The offensive conduct underlying some incidents might be protected speech, but may still be in contradiction to Texas A&M University's commitment to civility, diversity, academic freedom, equality of opportunity and the valuing of human dignity. In these instances, constitutional rights will continue to be protected, but University staff will also exercise their right to speak and engage in educational dialogue with those engaged in these types of behaviors.

#### 47.13 Incidents not rising to the level of harassment

In some instances offensive conduct might not be severe, persistent or pervasive to rise to the level of reasonably interfering or limiting an individual's participation in services, activities or privileges provided by Texas A&M University. Nevertheless, the offensive conduct could still be a violation of the Student Conduct Code or other published rules of the university. As stated in the Student Conduct Code, violations of the Student Conduct Code that are motivated by prejudice toward a person or group because of factors such as race, religion, ethnicity, disability, national origin, age, gender or sexual orientation may be assessed an enhanced sanction (see rule 24.5)