

Tarleton State University Rule No. 08.01.01.T1

Civil Rights Compliance



New/Approved: August 16, 2016
Next Scheduled Review: August 16, 2021

Rule Statement

Tarleton State University (Tarleton) will provide equal opportunity to all employees, students, applicants for employment and admission, and the public.

Reason for Rule

This rule provides Tarleton guidance in complying with local, state and federal civil rights laws and regulations. This rule applies to complaints and/or appeals by faculty, administrators, staff, students and/or third parties alleging illegal discrimination, sexual harassment and/or related retaliation.

Procedures and Responsibilities

1. GENERAL

- 1.1 This rule establishes the uniform procedure, in accordance with System Regulation 08.01.01, for handling any complaint or appeal by an employee, student, or third-party at Tarleton alleging illegal discrimination, sexual harassment and/or related retaliation.
- 1.2 Tarleton's chief executive officer (CEO) has the primary responsibility for ensuring compliance with civil rights laws and regulations.

In accordance with System Regulation 08.01.01, section 1.1, the Tarleton State University CEO designates the following contacts responsible for overseeing its civil rights protections program.

Affirmative Action Officer – Assistant Vice President of Employee Services
Equal Employment Opportunity Officer – Assistant Vice President of Employee Services
Title IX Coordinator – Senior Title IX Coordinator, Office of Risk Management
Section 504 of the Rehabilitation Act of 1973 Coordinator – Associate Vice President of Academic Affairs

These university designees will ensure that all allegations of illegal discrimination, sexual harassment and/or related retaliation are promptly, thoroughly, and equitably investigated and resolved. The designees will periodically follow up on situations in which illegal discrimination, sexual harassment and/or related retaliation is found to ensure that the situation does not recur.

- 1.4 Upon receiving an inquiry or a charge of illegal discrimination, sexual harassment, and/or related retaliation from a local, state or federal agency, Tarleton must immediately inform the System Ethics and Compliance Office (SECO) which will serve as the liaison between Tarleton and the agency.

2. CIVIL RIGHTS COMPLAINT PROCESSING

2.1 Reporting

- 2.1.1 Any employee who experiences, observes or becomes aware of illegal discrimination, sexual harassment and/or related retaliation must promptly report the incident(s) to his or her supervisor or the Assistant Vice President of Employee Services located in Administration Annex I, Room 105, on the Stephenville campus. Visitors are encouraged to report violations to the Assistant Vice President of Employee Services.

Students filing complaints related sex discrimination, including sexual assault and sexual harassment may file a complaint with the Title IX Coordinator, , located in Administration Annex I, Room 106, on the Stephenville campus. Students may also file such reports with the Office of Judicial Affairs or the University Police Department.

Students filing complaints related to any other form of illegal discrimination or related retaliation may file a complaint with the Office of Judicial Affairs located in the Thompson Student Center, Room 201.

2.2 Investigations

- 2.2.1 An investigation is initiated when a timely report or complaint is filed with the appropriate designee as outlined in Section 2.1.1 of this rule. Designees are responsible for providing timely notice to all parties and system representatives as outlined in System Regulation 08.01.01, the assignment of an investigative authority and a designated administrator, compliance throughout the process, and retention of the case file.
- 2.2.2 The Tarleton Title IX Coordinator is responsible for the coordination of investigations involving employee, student, or third party sexual misconduct by assisting with the investigation or assigning the complaint or report to a trained investigator within five business days of receipt of the complaint or report.
- 2.2.3 The Title IX Coordinator or other designee will make effort to meet with the reporter/complainant to explain the complaint process, to inform them

of available resources, and to answer any questions they may have. During this meeting, the reporter/complainant should be asked what type of outcome they would like to see from the complaint process. The Title IX Coordinator or other designee should not promise any outcome, but rather acknowledge that their wishes will be taken into consideration.

2.2.4 If the information is sufficient, the Title IX Coordinator or other designee will forward the complaint, appeal or report to an appointed investigative authority within five business days of receipt. A co-investigator will be assigned if deemed appropriate by the Title IX Coordinator or other designee. If the information is insufficient, that individual or office, in consultation with the System Office of General Counsel (OGC), may conduct an inquiry into the circumstances of the complaint/ report/appeal and (a) dismiss it as untimely filed, baseless, or not a violation of civil rights policy; (b) close it for insufficient information to investigate; or (c) refer it to the office(s) which handles complaints or appeals not related to civil rights.

2.2.5 The Title IX Coordinator or other designee will review each report, complaint and/or appeal, interview witnesses (if applicable), review relevant documentation, and provide a draft investigation report to OGC for legal sufficiency review within 30 business days of receipt of the complaint. OGC will provide its legal review to the investigative authority within 10 business days. The investigative authority will have five business days to finalize the report and submit it to the designated administrator. Circumstances may warrant extensions to the time frames in this section. If extensions to the time frames are granted, then notification should be provided to the involved parties.

2.3 Sanctions

2.3.1 In addition to the sanctions outlined in System Regulation 08.01.01, Tarleton- specific sanctions may be found in the Student Code of Conduct for students or the Faculty and Staff Handbooks for employees. These are available on the Tarleton website.

2.3.2 If a respondent is found responsible for the alleged illegal discrimination, sexual harassment and/or related retaliation, the aggrieved party will have the opportunity to submit a Victim Impact Letter to the Title IX Coordinator or designee for delivery to the respondent. This letter is intended to give the aggrieved party the opportunity to describe the impact that the incident had on them. The Student Code of Conduct may restrict what may be included in the letter. The respondent is under no obligation to read this letter. The respondent may not take this letter from the Title IX Coordinator's office (or other appropriate office) or make copies of it.

2.4 Appeals

2.4.1 Complainants and/or respondents can only appeal a finding in sex discrimination or retaliation cases (including sexual harassment and sexual

violence), in accordance with A&M System Regulation 08.01.01, Section 4.5.1. Decisions in all other cases of discrimination or retaliation cannot be appealed.

2.4.2 A sanction may be appealed by a complainant and/or respondent in sex discrimination or retaliation cases (including sexual harassment and sexual violence), in accordance with A&M System Regulation 08.01.01, Section 4.5.1. Sanctions in all other cases can only be appealed by the respondent.

2.4.3 To file an appeal, the complainant or respondent must submit a written statement to the Assistant Vice President of Employee Services, the Vice President for Student Life, or the Title IX Coordinator, as applicable, within five business days of notification of the finding and/or sanction. The Vice President for Student Life will review and decide upon appeals in cases involving a student respondent. The Assistant Vice President of Employee Services will designate an appeal reviewer in all other cases.

a. The appeal reviewer is responsible for providing a written decision back to the coordinating office within fifteen (15) business days of receipt of the appeal. In his or her review of the appeal, the reviewer has the choice of:

1. Deciding the appeal;
2. Convening an adhoc committee to review the appeal and make a recommendation prior to deciding on the appeal. In Title IX related cases, the members of the adhoc committee must be adequately trained in the Title IX process and federal protections relating to such cases; or
3. Sending the appeal to another administrator who was not involved in the initial investigation for review and a recommendation prior to deciding on the appeal.

The coordinating office will report the appeal decision to all appropriate parties within five (5) business days of receipt. The appeal reviewer's decision is final, although a sanction of dismissal of a faculty member may invoke other processes found in A&M System Policy 12.01.

3. PRIVACY

3.1 The privacy of all parties to a complaint of illegal discrimination, sexual harassment and/or related retaliation will be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint process, or not deemed as an individual with a need-to-know, is not permitted. Violations of the privacy of the complainant or the respondent may lead to disciplinary action by the university.

3.2 The university will take reasonable measures to protect the well-being and safety of all parties during its investigation. Both complainant and respondent will be

afforded equal protections and rights in accordance with applicable law, policy and regulation.

- 3.3 Certain campus officials have a duty to report sexual assaults, domestic violence, dating violence, and stalking for federal reporting purposes (Clery Act). All personally identifiable information will be kept confidential when making these reports in accordance with federal and state laws and regulations, as applicable.
- 3.4 Any pending criminal investigation related to a complaint will not delay or impede the university from its investigation, although the university may defer the initiation of its investigation for up to ten days to allow law enforcement to collect evidence. The university will ensure that its administrative investigation does not interfere with or jeopardize the criminal investigation.

4. RECORDKEEPING

- 4.1 The Title IX Coordinator will maintain original documentation related to Title IX complaints in accordance with record retention guidelines.
- 4.2 Employee Services will maintain original documentation related to employee and third party complaints in accordance with record retention guidelines.
- 4.3 Judicial Affairs will maintain original documentation related to student complaints in accordance with record retention guidelines.

5. POSTING OF JOB OPENINGS

- 5.1 Tarleton will post all advertising-required job openings with the Texas Workforce Commission. All employment vacancy announcements will affirm equal employment opportunity. Purchase orders, bid requests and other such documents sent to suppliers, contractors and subcontractors should contain an appropriate statement to conform to affirmative action requirements and the system's historically underutilized businesses program.

Related Statutes, Policies, or Requirements

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

System Policy 32.01, [Employee Complaint and Appeal Procedures](#)

System Policy 12.01, [Academic Freedom, Responsibility and Tenure](#)

System Regulation 32.01.02, [Complaint and Appeal Process for Non-faculty Employees](#)

System Policy 33.03, [Nepotism](#)

Tarleton SAP 12.01.99.T1, [Granting Extension of Tenure Probationary Period](#)

Tarleton State University [Student Code of Conduct](#)

Tarleton State University [Faculty and Administrative Staff Handbook](#)

Tarleton State University [Staff Handbook](#)

[The Equal Pay Act of 1963](#)
[Title VII of The Civil Rights Act of 1964, as amended](#)
[The Age Discrimination in Employment Act of 1967](#)
[Title IX, Education Amendments of 1972](#)
[The Rehabilitation Act Amendments of 1973, as amended](#)
[Americans with Disabilities Act of 1990, as amended](#)
[The Genetic Information Nondiscrimination Act of 2008](#)
[Executive Order 11246, as amended](#)
[Executive Order 13672](#)
[Tex. Fam. Code, Title 4, Subtitle A, Ch. 71, § 71.0021](#)
[Tex. Fam. Code Title 4, Subtitle A, Ch. 71, § 71.004](#)
[Tex. Lab. Code, Ch. 21, Employment Discrimination](#)
[Tex. Penal Code, Title 5, Ch. 22, § 22.011](#)
[Tex. Penal Code, Title 9, Ch. 42, § 42.072](#)

This rule supersedes:

Tarleton 08.01.01.T1.01
Tarleton 08.01.01.T1.03

Definitions

Confidential – a form of privileged communication which need not be disclosed in court as 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.

Consensual – involving or based on mutual consent.

Consent – clear and voluntary agreement to engage in a specific sexual activity. A person who was asleep or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or whose agreement was made under duress or by threat, coercion, or force, cannot give consent.

Dating violence – an act, other than a defensive measure to protect oneself, by an individual against a victim with whom there is or was a romantic or intimate relationship or marriage, and that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably results in a fear of such harm. (Texas Family Code 71.0021)

Designated administrator – the decision-making entity specified in Tarleton rules. This may be an administrator or a hearing panel, but may not be the direct supervisor of the respondent.

Disability – the term “disability” means, with respect to an individual,

- (a) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (b) a record of such impairment; or
- (c) being regarded as having such an impairment.

Domestic or family violence – an act, other than a defensive measure to protect oneself against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault, or the threat of which reasonably causes fear of such harm. (Texas Family Code Section 71.004)

Hostile environment – a situation in which there is harassing conduct based on a legally protected status that is severe, persistent or pervasive enough to create a work or educational environment that a reasonable person would consider intimidating or abusive. The determination of whether an environment is “hostile” must be based on all of the circumstances, which may include the frequency of the conduct, the nature and severity of the conduct, whether the conduct was physically threatening or humiliating, and the mental or emotional effect of the conduct on the individual subjected to the alleged illegal discrimination, sexual harassment and/or related retaliation. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality or policy violation.

Investigative authority – one or more individuals appointed to conduct a formal inquiry to discover and examine the facts of an allegation.

Major life activities – major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working and the operation of a major bodily function including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

Private – that which affects, characterizes, or belongs to an individual person, as opposed to the general public. With respect to this regulation, private means restricting information to those with a reasonable need to know.

Qualified individual – an individual who, with or without reasonable accommodations, can perform the essential functions of the employment position that such individual holds or desires.

Quid pro quo sexual harassment – “this” for “that”; i.e., unwelcome sexual advances, requests for sexual favors or other verbal, physical, or non-physical conduct of a sexual nature, the submission to or rejection of which may result in an adverse educational or employment action.

Reasonable accommodations – reasonable accommodations may include making existing facilities used by employees, students and the public readily accessible to and usable by individuals with disabilities; job restructuring, part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

Regarded as having a disability – the individual establishes that he or she has been subjected to an action prohibited under this regulation because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity. This will not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six months or less.

Reporter – the individual who provides an oral or written account of an alleged violation of this regulation. This may be the individual who was subjected to the alleged violation, or a third party who observed or was made aware of the alleged violation.

Sexual assault – any intentional or knowing penetration of the sex organs, anus, or mouth without the other person’s consent.

Sexual exploitation – a situation in which an individual(s) 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, invasion of sexual privacy, and knowingly transmitting a sexually transmitted infection to another person.

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 constitute 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 assault, sexual exploitation, and stalking, dating violence, and domestic violence when based on sex.

Stalking – knowingly engaging in conduct, including following a person, that one reasonably believes is threatening the bodily injury or death of themselves, a member of their family or household, or their property. (Texas Penal Code 42.072)

Undue hardship –an action requiring significant difficulty or expense when considered in light of the following factors:

- (a) The nature and cost of the accommodation needed;
- (b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility, the effect on expenses and resources; or the impact otherwise of such accommodation upon the operation of the facility;
- (c) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and
- (d) The type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity; the geographic

separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

Contact Office

Office of Risk Management and Compliance
254.968.9415