



System Ethics & Compliance Office

THE TEXAS A&M UNIVERSITY SYSTEM

SYSTEM REGULATION 08.01.01, APPENDIX B MINIMUM TRAINING REQUIREMENTS FOR CIVIL RIGHTS INVESTIGATIONS, ADVISEMENT, ADJUDICATION, APPEALS, AND INFORMAL RESOLUTION IN THE TEXAS A&M UNIVERSITY SYSTEM (MINIMUM TRAINING REQUIREMENTS)

Introduction

This guidance document provides minimum annual training requirements for all university or agency personnel involved in the reporting, review, investigation, adjudication, advisement, appeals, and informal resolution of civil rights discrimination complaints under Texas A&M University System Regulation 08.01.01, as well as for university or agency leadership and those personnel involved in implementing civil rights initiatives through stakeholder/affinity groups. These requirements draw from legal mandates and guidance and best practices to establish a minimum level of annual training designed to educate appropriate personnel on important competencies related to their work

Background

The Violence Against Women Reauthorization Act of 2013 (VAWA), which amended the Clery Act, included training requirements for all educational institutions on grievance processes for allegations of dating violence, domestic violence, sexual assault, and stalking. Specifically, VAWA mandated that, as of July 1, 2015, schools are required to provide for a prompt, fair, and impartial disciplinary proceeding which “will be conducted by officials who receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and annual training on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.”¹

Additionally, the 2017 interim guidance from the Department of Education specified that Title IX investigations require trained investigators who will analyze and document available evidence, objectively evaluate the credibility of parties, synthesize inculpatory and exculpatory evidence, and take into account the unique and complex circumstances of each case.² The 2020 final regulations from the Department of Education added additional responsibilities to Title IX

¹ From the Violence Against Women Act (VAWA), 2014 as published in the Federal Register. Document available at <https://www.federalregister.gov/documents/2014/10/20/2014-24284/violence-against-women-act>.

² From Office for Civil Rights September 2017 Q&A on Campus Sexual Misconduct, page 6. Document available at <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>.

Coordinators and provided for the additional of member-appointed advisors to conduct cross-examination on behalf of the parties in cases that fall under Title IX.³

Given nation-wide concerns over the ability of schools and state and federal agencies to conduct fair and impartial investigations and adjudicatory processes that protect the rights of all parties while arriving at decisions that are consistent with the available evidence, the training of all individuals involved in the reporting and resolution of these matters is a critical issue. Beyond simply indicating that our practitioners must receive adequate training, the federal government has not articulated minimum subject matter training for most of the practitioners involved in the management of these cases. Rather than await additional governmental guidance, the System Ethics and Compliance Office (SECO), utilizing best practices in the profession, is requiring minimum levels of training with the intention of improving compliance efforts across The Texas A&M University System. By ensuring that our personnel are adequately trained, we believe that we can both improve our investigative and adjudicative efforts while also improving general public confidence in our personnel and processes.

Training Providers and Materials

The System Ethics and Compliance Office (SECO) provides member training upon request and conducts and facilitates large training events as needed to meet training obligations. The Director, Title IX Compliance is responsible for approving all training materials to be used to train system members. Training provided by SECO staff will be provided to members for mandatory public posting on their Title IX website. Training materials provided to members by internal member trainers and external third parties must be submitted to SECO at least one week in advance of any training for review and approval. Once training has been conducted, these materials must also be publicly posted on the member's Title IX website.

When choosing to use SECO for training, it is recommended that you contact the office no less than thirty days in advance of any planned training program. Desired outcomes will be identified and a trainer (or trainers) will be identified and scheduled to conduct the training. Training is conducted free by SECO staff. However, members must incur the cost of any space, technology, food and beverages, and material reproduction.

Please note that training provided by SECO may require a specific number of minimum hours of training, based on the subject matter being reviewed. SECO may utilize in person, virtual, and online training based on the subject matter and identified member needs. Contact SECO for additional information.

Required Minimum Annual Training

³ Final Rule, 34 CFR Part 106, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. Document available at <https://www.govinfo.gov/content/pkg/FR-2020-05-19/pdf/2020-10512.pdf>.

For the purpose of this document, training requirements will center on necessary areas of competency rather than the amount of time spent in training. Additionally, while some competency areas do not change significantly on a year to year basis, annual training is important as a “refresher” for appropriate employees (especially for those who infrequently engage in compliance efforts) and as an opportunity to collaborate across functions to create and maintain a seamless Title IX compliance effort.

SECO and the Office of General Counsel (OGC) concur that the following competency areas are essential in carrying out employees’ assigned responsibilities. Please note that Title IX Coordinators should participate in all of the following training areas.

A. University/Agency CEOs, Vice Presidents, Compliance Officers, Title IX Coordinators, Civil Rights Officers, Deputy Coordinators, Intake Personnel, Stakeholder Group Members, and Campus Law Enforcement Officers

These individuals must understand civil rights administration from an overall perspective, as well as have a fundamental understanding of the processes used to report, review, investigate, and resolve complaints of civil rights violations. Content areas include:

1. review of applicable federal and state laws, as well as federal regulations and guidance;
2. review of System Regulation 08.01.01 and appropriate member rules;
3. review of reporting, review and gate-keeping, supportive measures, investigations, adjudication, appellate, and informal resolution processes specific to that member, and;
4. trauma-informed investigations (law enforcement requirement only)

B. Civil Rights Investigators

These individuals must have an in depth understanding of how civil rights law and System Regulation 08.01.01 guide their collection of evidence in harassment and discrimination complaints. Specifically, investigators must know:

1. applicable federal and state laws, as well as federal regulations and guidance;
2. System Regulation 08.01.01 and appropriate member rules;
3. reporting, review and gate-keeping, supportive measures, investigations, adjudication, appellate, and informal resolution processes specific to that member;
4. how to conduct a comprehensive investigation, and how to gather evidence, determine relevance, distinguish between inculpatory and exculpatory information, and assess the credibility of parties;
5. how issues such as trauma, alcohol and other drugs, and consent must be considered in their investigative work, and;
6. how to prepare a comprehensive investigation report

C. Designated Administrators, Hearing Panel Members, Advisors, and Appellate Officers

These individuals must have an understanding of appropriate civil rights laws and System Regulation 08.01.01 as they relate to standards of evidence and regulation/member rules violations. These individuals must also have an in depth knowledge of student conduct and/or human resources disciplinary standards and processes. Specifically, adjudicators, advisors, and appellate officers must know:

1. applicable federal and state laws, as well as federal regulations and guidance;
2. System Regulation 08.01.01 and appropriate member rules;
3. reporting, review and gate-keeping, supportive measures, investigations, adjudication, appellate, and informal resolution processes specific to that member;
4. the elements of due process in system and member grievance processes;
5. the role of the adjudicator, panel chairperson, and/or panel advisor;
6. the role of the party advisor in the adjudicatory process
7. questioning and listening skills, and how to conduct a cross-examination;
8. the different types of evidence, how to value and weigh evidence, and how to assess credibility;
9. how issues such as trauma, alcohol and other drugs, and consent must be considered in their adjudicatory work;
10. how to determine if substantiated allegations violate System Regulation 08.01.01 or member rules;
11. how to sanction misconduct, and;
12. how the appellate process works

D. Informal Resolution Practitioners

These individuals must have an understanding of conflict and conflict resolution, and be proficient in active listening, questioning, and other skills critical to the success of informal resolution methods, as well as an in depth understanding of the specific method of conflict resolution. All informal resolution practitioners will be required to complete a minimum of forty (40) hours of initial training, and complete no less than twenty hours of supplemental training each year. While some basic conflict resolution training can be done in a virtual environment, specific training on mediation, restorative practices, and other facilitative methods requires in depth and in person training involving high levels of interactions and individualized feedback. As a result, these processes will generally not be taught in a virtual environment.

For all practitioners (basic):

1. Intake and Out-take Processes
2. Conflict and Conflict Styles
3. Culture and Conflict
4. Power and Conflict

5. Conflict Resolution Methods
6. Listening and Questioning Skills
7. Addressing Resistance
8. Caucusing
9. Impasse
10. Creating Agreements

For all practitioners (advanced):

11. Groups and Conflict
12. Advanced Cultural Training

For Mediation and Shuttle Diplomacy:

13. The Mediation Process
 - a. Preparation
 - b. Opening Statement
 - c. Past Orientation
 - d. Present Orientation
 - e. Future Orientation

For Restorative Practices:

14. Types of Restorative Processes
 - a. Adjudicative
 - b. Non-adjudicative
15. The Restorative Process
 - a. Past Orientation
 - b. Present Orientation
 - c. Future Orientation