



# TITLE IX REVIEWS

TEXAS A&M UNIVERSITY

UPDATE AUGUST 2018

Summary, Actions and Next Steps

# PURPOSE

This presentation provides a high level summary of:

- Reviews background;
- Internal and external reviews;
- Committee recommendations;
- Immediate actions; and
- Continuing work.

Full internal and external review reports available at: <https://today.tamu.edu/>

## BACKGROUND

- **Reviews announced:** President Young announced in June internal and external reviews of the university's Title IX rules, policies and processes following concerns raised about how the university handles Title IX investigations and sanctioning;
- **Meeting to hear concerns:** President, Chancellor, other leaders met with an Aggie-led sexual assault advocacy group at the invitation of Provost Carol Fierke to hear their concerns;
- **Committees formed and met regularly:** Students, faculty, staff, community Sexual Assault Resource Group (SARC), advocacy group members, and Student Body President. *See full review reports to see scope, methodologies, committee membership and recommendations;*
- **External firm selected, conducted research and interviews:** *See full report for benchmarking, primary and secondary research and recommendations;*
- **Review recommendations submitted**
- **Actions approved:** Announced August 20; and
- **Ongoing work:** Continuing work, including input from faculty, staff and students not here during this time period.

# PRIMARY CONCERNS IDENTIFIED

Category	Concerns/Needs
<p><b>1. Report Intake</b></p>	<p>Help individuals to understand where to report, the process ahead, their rights. Minimize the number of times necessary to have to retell their story.</p>
<p><b>2. Trauma-Informed Communications</b></p>	<p>Support students professionally and with care specific to traumatic cases at every interaction throughout the process.</p>
<p><b>3. Policies</b></p>	<p>Convey clear policies, rights, and a range of sanctions and participation that are commensurate with the type and severity of the violation(s).</p>
<p><b>4. Resources</b></p>	<p>Provide resources that can be easily accessed and understood. Ensure consistency in communications across university.</p>



# PRESIDENT'S ANNOUNCED ACTIONS

- 1 New approved sanctioning model for students
- 2 New guidelines for participation in representing the university in extracurricular activities
- 3 Dean of Students – not organization/team – decides interim restrictions
- 4 Decision for eligibility to return to participation determined at investigation finding, not upon return from suspension
- 5 Update communications to a central omnibus site, to and from which all resources flow
- 6 Enhance and empower Title IX office, redefining role, resources and authority
- 7 Hire four additional positions (investigators, Title IX Deputy Coordinator, case manager)
- 8 Assign one-on-one case managers to assist students throughout process
- 9 Expansion and distribution of counselors
- 10 Additional trainings and communications approved, such as: mandatory reporter; trauma-informed cases; rights and resources
- 11 Transcript notations in immediate effect

# INTERNAL REVIEW

## Committee One: Student experience in Title IX investigations

### Charge/Scope

- Research and analyze student experience in investigations, including policies and practices of Title IX processes pertaining to sexual assault, focusing on interaction for complainant, respondent and other participants.
- Make recommendations that address concerns and establish Texas A&M as a national leader.

### How committee uncovered strengths, weaknesses/opportunities for improvement:

In addition to committee meetings, Dr. Means-Coleman also participated in a mock-intake scenario posing as a graduate student with Mr. McGinnis as a faculty advisor assisting. While impossible to simulate the reality of traumatic cases, this helped uncover some key findings in the process that led to recommendations.



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# INTERNAL REVIEW

## Committee One Recommendations

1. Consolidate intake and investigation into expanded Title IX Office;
2. Ensure a trauma-informed response for all that includes access to case managers and that communicates the timeline for process;
3. Improve and expand methods of consistent communication; and
4. Explore alternative resolution models (Investigator Model, Administrator, Restorative Justice).

Note: More than 40 recommendations that relate to the core recommendations above are in the full review report.

# INTERNAL REVIEW

## Committee Two: Sanctioning and participation

### Charge/Scope

- Research, discuss and develop recommendations for student sanctioning model and eligibility to represent Texas A&M in extracurricular activities.
- Make recommendations that address concerns and establish Texas A&M as a national leader.

### How committee uncovered strengths, weaknesses/opportunities for improvement:

- Extensive review: current guidelines, benchmark examples such as ATIXA, University of Minnesota, others; Code of Conduct Title IX violations – language, associated sanctions, mitigating, aggravating and compounding factors;
- Research and discussion of scenarios and accompanying sanctions and interim suspension and suspension/expulsion processes;
- Review and extension to all extracurricular activities – such as athletic teams, clubs, band, Corps of Cadets, student government representatives, etc.



# INTERNAL REVIEW

## Committee Two: Recommended Sanctioning Matrix

- Specific, fair, clear
- Visual, multi-format
- Primary goal: Clarity pre/during hearings
- Secondary goal: Educational tool

SANCTION RANGE

Stage 1: Reprimand/Restrictions/Review

Stage 2: Probation

Stage 3: Suspension

Stage 4: Expulsion

DATING ABUSE & VIOLENCE	DATING ABUSE & VIOLENCE	DATING ABUSE & VIOLENCE	DATING ABUSE & VIOLENCE
<p><b>SEXUAL HARASSMENT</b></p> <ul style="list-style-type: none"> <li>• Severe, persistent, or pervasive sexual innuendos, jokes, remarks, questions, gestures</li> <li>• Display of sexually explicit visual material</li> </ul>	<p><b>SEXUAL HARASSMENT</b></p> <p>Any one or combination of Stage 1 behaviors plus a behavior from another category</p>	<p><b>SEXUAL HARASSMENT</b></p> <p>Any one or combination of Stage 1 and/or Stage 2 behaviors plus a behavior from another category</p>	<p><b>SEXUAL HARASSMENT</b></p> <p>Any one or combination of Stage 1, Stage 2 and/or Stage 3 behaviors plus a behavior from another category</p>
<p><b>STALKING</b></p> <ul style="list-style-type: none"> <li>• Repeated, unsolicited phone calls, emails, texts, and/or gifts to another person and/or their family/household</li> <li>• Repeatedly following another person or conducting surveillance of another person and/or their family/household</li> <li>• Direct or private unsolicited contact or attempts to contact via social media</li> </ul>	<p><b>STALKING</b></p> <p>Any one or combination of Stage 1 behaviors plus:</p> <ul style="list-style-type: none"> <li>• 2nd violation of stalking</li> <li>• Repeated, unsolicited contact or attempts to contact via social media</li> </ul>	<p><b>STALKING</b></p> <p>Any one or combination of Stage 1 and/or Stage 2 behaviors plus:</p> <ul style="list-style-type: none"> <li>• Intimidation or Physical abuse in retaliation for reporting sexual misconduct, dating/domestic violence, and/or stalking</li> <li>• Repeated, unsolicited visits to another person's home, business, and/or class, and/or that of their family/household</li> <li>• Assuming another's identity in order to make contact with complainant</li> </ul>	<p><b>STALKING</b></p> <p>Any one or combination of Stage 1, Stage 2 and/or Stage 3 behaviors</p>

\*NOTE: Partial graphic only. See Internal Review Report for complete chart



# INTERNAL REVIEW

## Committee Two: Recommended Sanctioning Dashboard



### Non-consensual Sexual Contact Examples

BEHAVIOR	1	2	3	4
Unwelcomed kissing and/or light touching over clothing	■	■	■	
Non-genital fondling, groping or heavy touching		■	■	■
Unwelcomed increased touching, fondling, groping, or genital touching		■	■	■
Unwelcomed touching, fondling, groping or genital touching			■	■

Examples of  
sanction dashboard.  
See full Internal  
Review chart for all  
violations

### Sexual Abuse Examples

BEHAVIOR	1	2	3	4
Oral sex			■	■
Penetration (by sex organs)			■	■
Penetration (by means other than sex organs)			■	■



# INTERNAL REVIEW

## Committee Two: Sanctioning Clarity – One chart per violation

APPENDIX A: TITLE IX CUMULATIVE SANCTION MATRIX

Texas A&M University Title IX Internal Review and Recommendations  
August 2018

Examples of misconduct that applies to this conduct violation

### Conduct Violation: Sexual Abuse

**EXAMPLES**

- Oral sex
- Penetration (by sex organs)
- Penetration (by means other than sex organs)
- Incidents with predation are automatic expulsion

**DEFINITION FROM CONDUCT CODE**

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.

RANGE

3-4

Definition

Range of sanctions for this violation

Mitigating, aggravating, and compounding factors that determine where one lands on the range



**Mitigating Factors\***

- Consent was ambiguous.
- The responding party's behavior, though non-con-sensual, did not exhibit a deliberate disregard for the dignity and autonomy of the complainant, but instead appeared to be an error in judgment, possibly affected by drug or alcohol use.
- The responding party's behavior was not malicious.
- Complainant impact statement and reduced sanction request.

**Aggravating Factors\***

- A request for enhanced sanctions by the complainant.
- The responding party's use of force or physical violence in the perpetration of the non-consensual sexual intercourse.
- The responding party's use of a weapon or restraints.
- The responding party threatened bodily injury or intimidated the reporting party.
- The use of drugs or alcohol to intentionally incapacitate the complainant.
- The responding party's brazen refusal to desist the conduct after consent had been clearly revoked.
- The responding party's behavior was predatory.
- The responding party knew they had an STD at the time of the intercourse and did not disclose it.
- "Stalthing" (removing a condom during sex without the reporting party's consent).
- An ongoing hostile environment persists.
- The responding party was in a position of power or authority over the complainant.

**Compounding Factors\*\***

- Prior history of misconduct (i.e., found in violation of policy through formal process).
- The student's prior history of misconduct involved the same or similar types of behavior.
- Cumulative violations.

\* Sources: The ATIXA Guide to Sanctioning Student Sexual Misconduct Violations (Feb 2018); Texas A&M University Internal Review Committee (July 2018)  
\*\* ATIXA's Compounding Factors are designed to determine if the sanction range needs to be bumped upward as a result of the compounding factors.

Note: This slide contains just one example of seven violation definition pages. See Internal Review Report.





# INTERNAL REVIEW

## Committee Two: Participation Recommendations

- Representing the university in extracurricular activities is a “privilege” not a “right”
- New guidance includes athletic teams, clubs, fraternities, sororities, the Corps of Cadets, band, student government, and other formally-recognized groups;
- Decision to allow or deny participation is not left to the club, team, coach or organization but is remanded to the Dean of Students for interim restrictions and to sanctioning body if found responsible at the hearing;
- Students found responsible for acts of sex-based violence and/or non-consensual sexual penetration will be subject to a minimum of one-year suspension in the absence of significant mitigating factors;
- Those allowed to return after a year or more of suspension will not be eligible to represent the university and also will be ineligible to receive institution-administered scholarships;
- Those with predatory behaviors will be permanently expelled.



# EXTERNAL REVIEW

## HUSCH BLACKWELL (HB)

### Charge/Scope

- Evaluate investigative rules, policies, processes and implementation
- Interview students, faculty, staff, participants
- Make recommendations for improvements that will set a national standard in Title IX.

## Recommendations

1. Overhaul structure of TAMU's Title IX-related policies by consolidating all relevant provisions in an omnibus policy to improve clarity and ease of access for faculty, staff and students;
2. Streamline reporting obligations (What it means to be a mandatory reporter);
3. Redefine the role of the Title IX Coordinator, clarifying resources and authority available to ensure compliance and execution of the critical functions of the role;
4. Establish ongoing, collaborative process for evaluating policy improvements on a regular basis.

Note: For full findings and recommendations, see external review recommendations report



# APPROVED ACTIONS

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# ONGOING ACTIONS

## Approved Recommendations for Continuing Improvement

- 1 Explore alternate resolution models including moving to centralized investigator model for student, faculty and staff cases.
- 2 Launch implementation task force to ensure that all agreed actions are conducted and to ensure continuous review of processes and practices.
- 3 Launch faculty/staff sanction task force to develop consistent sanctions.
- 4 Establish benchmarking considerations to ensure that Texas A&M is a national leader.



# Do actions address concerns and more?

Issue	Concern/Need	Actions
<b>Report Intake</b>	Help individuals to understand where to report, the process ahead, rights and not to have to retell their story more times than necessary.	<ul style="list-style-type: none"> <li>✓ Clear pathway to report</li> <li>✓ Ensure clear communications on processes and rights for all</li> <li>✓ Minimize # times story told</li> </ul>
<b>Trauma-Informed Communications</b>	Support students professionally and with care specific to traumatic cases at every interaction throughout the process.	<ul style="list-style-type: none"> <li>✓ Training staff on sensitivities</li> <li>✓ Dedicated one-to-one case manager</li> <li>✓ Greater counselor access</li> </ul>
<b>Policies</b>	Convey clear policies, rights, and a range of sanctions and participation commensurate with the type and severity of violation(s).	<ul style="list-style-type: none"> <li>✓ Update and communicate clear rules</li> <li>✓ Specify sanctions and participation commensurate with violation(s)</li> </ul>
<b>Resources</b>	Provide resources that can be easily accessed and understood.	<ul style="list-style-type: none"> <li>✓ Review staffing levels for best support</li> <li>✓ Allocate staff or funds to improve online and hard copy tools</li> </ul>





**We must continue to aspire to live our core values  
in all that we are and all that we do.**

*Our Core Values*

**Respect • Excellence  
Leadership • Loyalty • Integrity  
Selfless Service**