Executive Summary and Expanded Justification for the Proposed Rule Changes – 08/06/2018

Changes proposed to Student Rules 24, 26, 27.4.2, and 47 are to achieve the following:

- alignment with changes to federal guidance (2017 Dear Colleague Letter), state laws (SB 968 & 969), TAMUS policy 08.01.01, best practices, and past review findings
- greater clarity for stakeholders
- codification of existing practices
- use of gender neutral language
- provide consistency of definitions across all rules

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DIVISION OF STUDENT AFFAIRS | One Division. One Mission.
MEMORANDUM

DATE:  July 13, 2018

TO:  Julie Harlin
      Speaker, Faculty Senate

FROM:  Dr. Anne Reber
        Chair, Rules and Regulations Committee

SUBJECT:  Proposed Revisions to the Texas A&M Student Rules

Attached please find proposed revisions to the Texas A&M University Student Rules as approved by the Rules and Regulations Committee. These changes are for the following section:

Change to Rule 24 Student Conduct Code
PROPOSAL

Please see attached rule for extensive changes

JUSTIFICATION
Through ongoing review of legislation, guidance, best practices, and recommendations/suggestions from audits, the attached rule revisions provide greater clarity for stakeholders. Additions and edits are consistent with existing practice and definitions provided in existing rules and policies in other locations. See comments on attached document for specifications.

PROPOSED BY:

Name: Kristen Harrell, Ph.D.
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E-Mail Address: kristenh@tamu.edu
Department: Offices of the Dean of Student Life
Department Mail Stop: 1257 TAMU
Date: July 3, 2018
Rule 24. Student Conduct Code

(Revised: 2017 2018)

The General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education supports higher standards of behavior for students.

Attendance at a university is not compulsory. The voluntary attendance of a student at a university is a voluntary entrance into the academic community. By such voluntary entrance, the student voluntarily assumes obligations of performance and behavior reasonably imposed by the university. These obligations are generally much higher than those imposed on all citizens by the civil and criminal law. A university may discipline students to secure compliance with these higher obligations as a teaching method or to sever the student from the academic community.

The General Order further emphasizes the ability of universities to establish standards of superior ethical and moral behavior that occur either on or off campus.

24.1 Definitions.

Only for purposes of this Student Conduct Code, the following terms and definitions will apply. The Vice President for Student Affairs or designee reserves the right to interpret and enforce this Code of Conduct.

24.1.1. The term “accused student” means any student charged with a violation of a student rule.

24.1.2. The term “chairperson” means a Student Conduct Administrator who is authorized by the Vice President for Student Affairs or his/her designee to take the lead role in conducting conferences when there is more than one person serving as a Student Conduct Panel and/or more than one Student Conduct Administrator present.

24.1.3. The term “charge” means an allegation of a potential violation of the Student Rules. Charges are issued after a Student Conduct Administrator has determined sufficient information exists to hold a conference to determine whether a student (or students) has violated a rule (or rules).

24.1.4. The term “complainant” means any person who submits information indicating that a student may have violated the Student Conduct Code. Information brought forth by the complainant may result in an investigation. (For Student Rule sections 24.1.7., 24.1.8., 26.2. and 47 only, "complainant" means any person who is the alleged recipient of alleged behaviors concerning sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking that are currently under review by the Offices of the Dean of Student Life.)
24.1.5. The term “conference” means a process which provides an opportunity for an accused student to respond to a specific charge or charges. The purpose of a conference is to determine whether there is a preponderance of information to support the charges and if so, to determine the appropriate sanction or sanctions. Only information presented during the conference can be used to determine if there is a finding of responsibility.

24.1.6. The term “consent,” solely for the purposes of the Sexual Misconduct policy rule (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.
- 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 clearly or visibly incapacitated is not able to give consent to sexual activity (see definition of incapacitation below).

24.1.7. The term “dating violence” means 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.

24.1.8. The term “domestic violence” means 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.

24.1.9. The term “faculty member” means any person hired by the University to conduct classroom, teaching, or research activities or who is otherwise considered by the University to be a member of its faculty.

24.1.10. The term “hostile environment” means 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 similarly situated 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.

24.1.1011. The term "incapacitation" means the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, sleep, unconsciousness, and brownouts and blackouts (where an individual is awake but is not forming memories). Where alcohol or other drugs are involved, incapacitation is defined with respect to how the substance consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments.

24.1.1112. The term "investigation" means 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 Dean of Student Life and/or designee.

24.1.1213. The term "may" is used in the permissive sense.

24.1.1314. The term "member of the University community" includes any person who is a student, faculty member, staff, University official or any other person employed by the University or by a company contracted to provide services for the University.

24.1.1415. The term "organization" means any number of people who meet any single or combination of the following criteria:

- belong to a group whose members are primarily Texas A&M University students including but not limited to academic, athletic, recreational, religious, performance, political, and social or similar groups, and/or
- have complied with the formal requirements for University recognition, and/or
- are advised by a University official whose position description designates them as an advisor, and/or
- are advised by a University official who has volunteered as an advisor, and/or
- live in close proximity to, for example, residence halls floors or wings, Corps outfit, Corps unit or Corps Special Activity, and/or
- are otherwise considered by the University to be an organization.

24.1.1516. The term "sanction" includes responses or requirements given by the University to a student during a conference in response to a violation of a rule. University sanctions include all items listed in Section 27 of this Student Conduct Code.

24.1.1617. The term "shall" is used in the imperative sense.

24.1.1718. The term "staff" means any person who is employed by the University that is not defined as faculty.

24.1.1819. The term "student" includes all persons who have accepted his/her offer of admission, and/or who are taking courses at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies
and who are either currently enrolled or were enrolled the previous semester and registered for a future semester. Persons who withdraw after allegedly violating the Student Conduct Code, or who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered students. In addition, persons who are living in University residence halls and apartments, although not enrolled in this institution, are also considered "students", for the purpose of enforcing this code.

24.1.1920. The term "Student Conduct Administrator" means a University official authorized by the Vice President for Student Affairs or his/her designee to collect information, to initiate charge letters, articulate charges in conferences, present information to support charges, to conduct conferences, and to impose sanctions upon any student(s) found to have violated the Student Conduct Code. The Vice President for Student Affairs or his/her designee may authorize a Student Conduct Administrator to serve simultaneously as a Student Conduct Administrator as the sole member, or one of the members of a Student Conduct Panel.

24.1.2021. The term "Student Conduct Panel" means any person or persons authorized by the Vice President for Student Affairs or his/her designee to determine whether a student has violated the Student Conduct Code and to determine sanctions that may be imposed when a rule violation has been committed (or found responsible).

24.1.2422. The term "rule" encompasses those behavior expectations contained in, but not limited to, the Student Rules, Residence Hall handbook, University Apartment Handbook, the Standard of the Corps of Cadets, and the University Computer Use and Resource Rules. These rules should be read broadly and are not designed to define prohibited conduct in exhaustive terms.

24.1.2223. The term "university" or "institution" means Texas A&M University.

24.1.2424. The term "University official" means any person employed by the University to perform assigned administrative or professional responsibilities or who is otherwise considered by the University to be a University official.

24.1.2425. The term "University premises" includes all land, buildings, facilities, and other property in the possession of or owned, leased, operated, supervised, used or controlled by the University (including adjacent streets and sidewalks).

24.1.2426. The Vice President for Student Affairs is that person designated by the University President to be responsible for the administration of the Student Conduct Code. The Vice President for Student Affairs may assign his/her a designee to meet these responsibilities.

24.2 Student Conduct Authority

24.2.1. The Vice President for Student Affairs or his/her designee shall develop procedures for the administration of the student conduct system and for the implementation of Student Conduct Conferences that are consistent with provisions of the Student Conduct Code.

24.2.2. The Vice President for Student Affairs or his/her designee shall determine the composition of Student Conduct Panel(s) and determine which Student Conduct Panel, Student Conduct Administrator and Appeal Panel shall be authorized to hear each matter.
24.2.3. Decisions made by a Student Conduct Panel and/or Student Conduct Administrator shall not be final until the appeal processes have been exhausted, waived, or time has expired.

24.3. Jurisdiction of the Student Conduct Code

The Student Conduct Code shall apply to conduct that occurs on University premises and/or at University sponsored activities or any other activity which adversely affects the University community and/or the pursuit of its objectives (mission). This action may be taken for either affiliated or non-affiliated activities.

The University may take action in situations occurring off university premises involving: student misconduct demonstrating flagrant disregard for any person or persons; and/or when a student's or student organization's behavior is judged to threaten the health, safety, and/or property of any individual or group; and/or when a student's sexual harassment of a Member of the University Community occurring off campus creates a hostile environment on campus. Using his/her the Vice President for Student Affairs' sole discretion, the Vice President for Student Affairs or his/her designee shall decide whether the Student Conduct Code shall be applied to conduct occurring off campus, on a case by case basis.

This Student Conduct Code applies at all locations of the University, except those campuses who write their own student conduct code.

24.4 Rules and Regulations

Conduct standards at the University are set forth in writing in order to give students general notice of prohibited conduct. These rules should be read broadly and are not designed to define prohibited conduct in exhaustive terms.

Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Section 27. It shall not be a defense that a University official, student leader or other person authorized the behavior in question:

24.4.1. Dishonesty. Acts of dishonesty, including but not limited to the following:

- Withholding material information from the University, misrepresenting the truth during a University investigation or student conduct conference, and/or making false statements to any University officials or law enforcement officers in the course of his/her their duties.

- Furnishing false information to and/or withholding information from any University official, faculty member, or office, or law enforcement officers in the course of his/her their duties.

- Forgery, alteration, possession, or misuse of any University document, record, or instrument of identification.

- The submission of false information at the time of admission or readmission is grounds for rejection of the application, withdrawal of any offer of acceptance, cancellation of enrollment, dismissal or other appropriate disciplinary action.
24.4.2. Harassment. Behavior that is severe, pervasive or persistent to a degree that a reasonable person similarly situated would be prevented from accessing an educational opportunity or benefit. This behavior includes, but is not limited to, verbal abuse, threats, intimidation, and coercion. In addition, harassment may be conducted by a variety of mediums, including but not limited to, physical, verbal, graphic, written, or electronic.

24.4.2.1. Sexual Harassment. (See Texas A&M University Student Rule 47.11) Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature constitutes 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 a reasonable person similarly situated would consider 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 that 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 misconduct.

24.4.2.2. Racial and Ethnic Harassment. (See Racial and Ethnic Harassment, Sec. 31)

24.4.2.3. Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- fear for the person's safety or the safety of others; or

- suffer substantial emotional distress.

For the purposes of this rule:

(a) **Course of conduct** means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. (b) **Reasonable person** means a reasonable person under similar circumstances and with similar identities to the victim.
(c) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. 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.

24.4.3. Physical abuse. Any attempt to cause injury or inflict pain; or causing injury or inflicting pain. Also causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. It is not a defense that the person, group, or organization against whom the physical abuse was directed consented to, or acquiesced to, the physical abuse.

The physical abuse rule is not intended to prohibit the following conduct:

- Customary public athletic events, contests, or competitions that are sponsored by the University or the organized and supervised practices associated with such events; or
- Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program as defined and approved by the University.

24.4.3.1 Domestic violence. Physical abuse by one or more parties in a domestic relationship against one or more parties in that domestic relationship (see “domestic violence” in definitions).

24.4.3.2 Dating violence. Physical abuse by one or more parties in a dating relationship against one or more parties in that dating relationship (see “dating violence” in definitions).

24.4.4. Theft/Damages.

24.4.4.1. Theft. Unauthorized removal or stealing and/or attempted removal or stealing of property of a member of the University community or other personal or public property, on or off campus. This includes knowingly possessing such stolen property. This also includes theft of services and/or misuse of another’s property including, but not limited to, unauthorized use of another’s property, unauthorized selling of subsidized tickets, and use of a forged parking permit.

24.4.4.2. Damages. Behavior that destroys, damages, or litters any property of the University, of a University community member, of another institution, or of another person, on or off campus (as permitted in section 24.3.) is prohibited under this rule.

24.4.5. Hazing. Any act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property; and/or assisting, directing, or in any way causing others to participate in degrading behavior and/or behavior that causes ridicule, humiliation, or embarrassment; and/or engaging in conduct which tends to bring the reputation of the organization, group, or University into disrepute for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization; or as part of any activity of a
recognized student organization, student group, Corps of Cadets, Corps outfit, Corps unit, or Corps Special Activities. Previously relied upon “traditions,” (including Corps, fraternity/sorority, or any other group or organization activity, practice or tradition) intent of such acts, or coercion by current or former student leaders of such groups, or former students will not suffice as a justifiable reason for participation in such acts. It is not a defense that the person (or group) against whom the hazing was directed consented to, or acquiesced to, the behavior in question.

Examples of such behavior include but are not limited to:

- Misuse of authority by virtue of one’s class rank or leadership position.
- Striking another student by hand or with any instrument.
- Any form of physical bondage of a student.
- Taking of one or more students to an outlying area and dropping his/her them off.
- Causing a student to violate the law or a University rule such as indecent exposure, trespassing, violation of visitation, etc.
- Any form of “quadding.”
- Having firsthand knowledge of the planning of such activities or firsthand knowledge that an incident of this type has occurred and failing to report it to appropriate University officials (The Dean of Student Life and/or the University Police Department) is also a violation under this section.

Students who are recipients and/or victims of hazing (and who have not perpetrated hazing behavior on others involved in the fact pattern for which they are reporting) and who report the activities to the Dean of Student Life and/or the University Police Department, will not be charged with a violation of the hazing rule.

The hazing rule is not intended to prohibit the following conduct:

- Customary public athletic events, contests, or competitions that are sponsored by the University or the organized and supervised practices associated with such events; or
- Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program as defined and approved by the University.

Hazing is also a violation of Texas state law. See the Texas Education Code, sections 37.151 and 51.936 and/or Appendix VI of the Student Rules.

24.4.6. Failure to comply. Failure to comply with proper and lawful direction of any University official or law enforcement officer.

24.4.6.1. Evading. Intentionally fleeing from a University official or law enforcement officer when the person knows or reasonably should have known the University official or law enforcement officer is attempting to confront, arrest, or detain.
24.4.7. **Failure to present identification.** Failure to provide identification upon the request of a University official.

24.4.8. **Breaching safety or security.** This includes but is not limited to: Unauthorized access to University facilities; unauthorized entry to or use of University premises; intentionally damaging door locks; unauthorized possession of University keys or access cards; duplicating University keys or access cards; or propping open of exterior residence hall or other campus building doors; tampering with fire safety equipment such as fire extinguishers, smoke detectors, alarm pull stations, gas detectors, or emergency exits; unauthorized entry into another person’s or entity’s residence, vehicle, or business.

24.4.9. **Violation of published University rules.** Violation of any University policy, rule, or regulation published in hard copy or available electronically on the University website. Such rules include, but are not limited to, Department of Residence Life contracts and rules, Corps of Cadets rules, University motor vehicle rules, rules relating to the use of student identification cards, entry and use of University facilities and dining hall conduct.

24.4.10. **Violation of NCAA Regulations.** Violations of any NCAA regulations.

24.4.11. **Violation of law.** Violation(s) of any federal, state or local law.

24.4.12. **Drugs.** The act of using, possessing, being under the influence of, manufacturing, or distributing illegal drugs or illegally obtained/possessed controlled substances is prohibited. Abusing legally obtained drugs by failing to take the drug as directed. Except as expressly permitted by law, use, possession, manufacturing, or distribution or being a party thereto of marijuana, heroin, narcotics, or other controlled and/or prescribed substances and/or drug paraphernalia and/or dangerous drug is also prohibited. Individuals may not operate a motor vehicle or another form of transportation while under the influence of drugs or while intoxicated. (See Appendix VII, Texas A&M University Drug Rules.)

24.4.13. **Alcohol.** Alcohol use, possession, manufacturing, or distribution of alcoholic beverages (except as expressly authorized by University regulations), is prohibited on Texas A&M University premises and University sponsored events. In addition, use, possession, or distribution of alcohol beverages while driving or riding in or on a vehicle on University premises is prohibited. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person under twenty-one (21) years of age. Individuals may not be in a state of public intoxication or drunkenness. Individuals may not operate a motor vehicle or another form of transportation while intoxicated or while under the influence of alcohol (See Appendix VIII, Texas A&M University Alcohol Rules).

24.4.14. **Weapons and explosives.** Illegal or unauthorized use, possession of fireworks or explosive, other weapons, or dangerous chemicals on University premises or at any University-sponsored activity or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others is prohibited. Illegal or unauthorized use or storage of any weapon. The term weapon may be defined as any object or substance designed to inflict a wound, cause injury or pain, or to incapacitate. Weapons may include, but are not limited to, all firearms, pellet guns, tasers, stunguns, slingshots, martial arts devices, switchblade knives and clubs.

24.4.15. **Disruptive activity.** Disruption or obstruction of teaching, research, administration, or other University activities (including public-service functions on or off campus) or of other authorized non-University activities when conduct occurs on University premises. Such activities may include, but are not limited to:
• Leading or inciting others to disrupt scheduled and/or normal activities on University premises.

• Classroom behavior that seriously interferes with either (a) the faculty member's ability to conduct the class or (b) the ability of other students to profit from the instructional program. (See Texas A&M University Rule on Classroom Behavior, section 21 of this publication.)

• Any behavior in class or out of class, which for any reason interferes with the class work of others, involves disorder, or otherwise disrupts the regular and essential operation of the University.

• Activity or conduct that violates the Texas A&M University Rules on Freedom of Expression (See Appendix XI).

24.4.16. Traffic obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University-sponsored or supervised activities.

24.4.17. Disorderly conduct. Public behavior that is disruptive, lewd, or indecent; breach of peace; or aiding, or procuring another person to breach the peace on University premises or at functions sponsored by the University or participated in by members of the University community.

24.4.18. Unauthorized recording. Any unauthorized use of electronic or other devices to make an audio, video, still frame or photographic record of any persons without his/her their prior knowledge, or without his/her their effective consent when the person or persons being recorded have a reasonable expectation of privacy and/or such recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom or recording administrative meetings with University officials. If a recording is made that captures a violation of the Student Rules or law, the Student Conduct Administrator may elect not to enforce this section of the Student Rules against the student making the recording.

24.4.19. Misuse of Computing Resources. Failure to comply with University regulations and policies, license agreements, and contracts governing network, software and hardware use; abuse of communal resources; use of computing resources for unauthorized commercial purposes or personal gain; failure to protect your password or use of your account; breach of computer security, harmful access or invasion of privacy. Misuse and/or other abuse of computer facilities and resources including, but not limited to:

• Use of another individual's identification and/or password.

• Use of computing facilities and resources to send obscene or threatening messages.

• Use of computing facilities and resources in violation of copyright laws.

(see Appendix V, Individual Responsibility for Use of Computing Resources)

24.4.20. Sexual Misconduct.

24.4.20.1. Sexual abuse. Sexual abuse is 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 the victim's 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. (see Sexual Violence Response Protocol. Offices of the Dean of Student Life).

24.4.20.2. Sexual contact. 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.

24.4.20.3. Sexual exploitation. 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.

Examples of such behavior include but are not limited to:

- Soliciting sexual contact with an individual in person or online who is or represents his or herself to be under the age of 14, or under the age of 17 and more than 3 years younger than the soliciting party, or an individual whom the soliciting party believes to be under the age of 14, or under the age of 17 years and more than 3 years younger than the soliciting party;

- Knowingly possessing, creating, distributing, and/or viewing material which includes sexual images of one or more individuals under the age of 18;

- Engaging in voyeurism;

- Prostituting another person;

- Permitting third parties to observe sexual activity without the knowledge of and/or consent of any party involved in the sexual activity;

- Electronically recording or transmitting images or sounds of another person or persons engaging in sexual activity without knowledge and consent;

- Knowingly putting another person at risk and/or knowingly transmitting a sexually transmitted infection to another person or persons without their knowledge.

24.4.21. Animal Cruelty. Intentionally, knowingly, or recklessly torturing or in a cruel manner killing or causing serious bodily injury to an animal, failing to provide necessary food, water or care for an animal in the person’s custody, abandoning unreasonably an animal in the person’s custody, transporting or confining an animal in a cruel manner, causing bodily injury to any animal without the owner’s consent, causing one animal to fight with another animal, or seriously overworking an animal. Intentionally, knowingly, or recklessly attacking, injuring or killing an assistance animal or inciting another to attack, injure or kill an assistance animal.

This policy is not intended to prohibit:

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http://studentaffairs.tamu.edu
- Killing or injuring an animal within the scope of a person's employment or furthering the goals of legitimate educational curriculum as designed and approved by the University.

- Killing or injuring an animal when the actor had a reasonable fear of bodily injury to self or other person by that animal.

24.4.22. **Reckless driving.** Driving in a manner that recklessly endangers the health and/or safety of oneself or others.

24.4.23. **Abuse of student conduct process.** Abuse of the student conduct processes including investigations, conferences, and appeals. Prohibited behavior includes, but is not limited to:

- Failure to obey the notice from a Student Conduct Panel, Student Conduct Administrator, and/or University official to appear for a meeting or conference as part of an official University disciplinary process.

- Falsification, distortion, or misrepresentation of information.

- Disruption or interference with the orderly conduct of an investigation, conference, or an appeal process.

- Intentionally initiating or causing to be initiated any false report.

- Attempting to discourage an individual's proper participation in, or use of, a student conduct process.

- Attempting to influence the impartiality of a member of a Student Conduct Panel prior to, and/or during the course of, the Student Conduct Panel proceeding.

- Verbal or physical intimidation, and/or retaliation of any party to the Student Conduct proceeding prior to, during, and/or afterwards.

- Committing a violation of University rules while serving a conduct probation, conduct review, or deferred suspension status or failing to meet deadlines imposed in accordance with University rules.

- Failure to abide by the terms of University administered sanctions.

- Influencing or attempting to influence another person to commit an abuse of the Student Conduct Code system.

24.4.24. **Complicity.** Attempting, aiding, abetting, conspiring, hiring or being an accessory to any act prohibited by this code shall be considered to the same extent as completed violations.

24.5. **Bias-Related Violations**—Violations of 24.4 of this 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 as prescribed in section 27 of this publication.

24.6. **Violations of Law and University Discipline**

The focus of inquiry in student conduct proceedings shall be the determination of whether a violation of University rules occurred. Student conduct proceedings shall be informal in nature and need not comply with the formal processes.
associated with the criminal and civil courts, nor shall deviations from prescribed process necessarily invalidate a decision or proceeding unless significant prejudice to the student or University may result.

Standards outlined by the University for students may be higher than those standards set for the general population. As each person is subject to multiple layers of expectations through the Federal, State, County and local governments, students are further expected to maintain a higher standard of behavior as members of the University community. Students failing to adhere to those standards may be subject to a University conduct process in addition to civil or criminal litigation should the behavior also be a potential violation of the law. The attempted analogy of student discipline to criminal proceedings against adults and juveniles is not sound.

Students may be charged with conduct that potentially violates both the criminal law and this Student Conduct Code (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Conduct Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of Vice President for Student Affairs or his/her designee.

Determinations made or sanctions imposed under this Student Conduct Code shall not be subject to change because criminal charges were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her individual's status as a student. If the alleged offense is also being processed under the Student Conduct Code, the University may advise off-campus authorities of the existence of the Student Conduct Code and of how matters are typically handled within the University community. The University will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus.
MEMORANDUM

DATE: July 13, 2018

TO: Julie Harlin
    Speaker, Faculty Senate

FROM: Dr. Anne Reber

SUBJECT: Proposed Revisions to the Texas A&M Student Rules

Attached please find proposed revisions to the Texas A&M University Student Rules as approved by the Rules and Regulations Committee. These changes are for the following section:

Change to Rule 26 Student Conduct Proceedings
PROPOSAL

Please see attached rule for extensive changes

JUSTIFICATION

Through ongoing review of legislation, guidance, best practices, and recommendations/suggestions from audits, the attached rule revisions provide greater clarity for stakeholders. Additions and edits are consistent with existing practice and definitions provided in existing rules and policies in other locations.

PROPOSED BY:

Name: Kristen Harrell, Ph.D.
Phone: 979-845-3111
E-Mail Address: kristenh@tamu.edu
Department: Offices of the Dean of Student Life
Department Mail Stop: 1257 TAMU
Date: July 3, 2018
Rule 26. Student Conduct Proceedings

(Revised: 2015 2018)

All charges shall be presented to the accused student in written form. The accused student will be given at least three (3) University business days to prepare for a conference. In all student conduct proceedings, the accused student shall be presumed not responsible until it is proven that a violation of the University rules occurred by a preponderance of the information standard.

26.1. Student Conduct Conferences which may result in University mandated separation from the University shall be conducted by the following guidelines. Accused students subject to less severe sanctions may, at the discretion of the Student Conduct Administrator, be afforded but are not guaranteed the same guidelines. These guidelines are as follows:

26.1.1. Student Conduct Conferences typically shall will be conducted in private and may involve joint conferences where two or more students are charged in the same fact pattern.

26.1.2. The accused student and his/her the accused student’s advisor, if any, shall be allowed to attend the entire portion of the student conduct conference at which information is received (excluding deliberations) provided the accused student and his/her the accused student’s advisor appear at the designated time and do not inhibit the proceeding. Admission of any other person to the student conduct conference shall be at the discretion of the Student Conduct Administrator.

26.1.3. In student conduct conferences involving more than one accused student, the Student Conduct Administrator, at his/her the Student Conduct Administrator’s discretion, may permit the student conduct conferences concerning each student to be conducted either separately or jointly.

26.1.4. There will be no finding of responsibility solely because a student remains silent during a student conduct conference.

26.1.5. The accused student has the opportunity to be assisted by an advisor the accused student chooses, at his/her the accused student’s own expense.

26.1.5.1. The advisor may not be an attorney unless the accused student is also the subject of a pending subsequent criminal matter arising out of the same circumstances or the charges include one or more charge of sexual harassment, sexual misconduct, dating violence, domestic violence, or stalking; in such cases, the accused student may be allowed to have an attorney serve as his/her the accused student’s advisor, at his/her own expense, to behave in the same manner as any other advisor.

26.1.5.2. Students who are charged in the same fact pattern, or who are not in good standing with the University are not eligible to serve as an advisor at conduct proceedings.

26.1.5.3. The advisor may not be a witness or otherwise have any conflicting role in the process.
26.1.5.4. During the process, the advisor may not actively participate, directly address an involved university official, or advocate on behalf of the student.

The accused student is are responsible for presenting their own information. Therefore, a student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the student conduct conference. Student conduct conferences will not typically be delayed due to scheduling conflicts of an advisor. There is no restriction on who a student may consult or seek advice from, the restriction pertains to the conduct conference only.

26.1.6. The accused student and the Student Conduct Administrator may arrange for witnesses to present pertinent information to the Student Conduct Panel. Witnesses may provide this information to and answer questions from the Student Conduct Panel, Student Conduct Administrator and, accused student and/or in cases involving one or more charges that include sexual harassment, sexual misconduct, dating violence, domestic violence, stalking, or retaliation for a report of one of these rules, the complainant. (Character statements shall be accepted in written form only.) In cases involving one or more charges that include sexual harassment, sexual misconduct, dating violence, domestic violence, stalking, or retaliation for a report of one of these rules, the accused student shall have the opportunity to submit an impact statement detailing the alleged consequences suffered by the accused student.

26.1.7. An advisor, witness, or other participating party who is verbally abusive, disruptive to the process, or persists in trying to inappropriately and substantively participate in the process after being warned to cease and desist may be asked to leave and may be precluded from attendance at future meetings. The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor.

26.1.8. Pertinent records, exhibits, student impact statements and other written statements may be accepted as information for consideration by a Student Conduct Panel at the discretion of the chairperson. Student impact statements and other documents determined at the discretion of the chairperson shall be reviewed by the Student Conduct Panel during the sanction phase only.

26.1.9. All procedural questions are subject to the final decision of the chairperson of the Student Conduct Panel.

26.1.10. After the portion of the Student Conduct Conference concludes in which all pertinent information has been received, the Student Conduct Panel shall deliberate in private to determine whether the accused student has violated each section of the student conduct code for which the student is charged.

26.1.11. The focus of inquiry in student conduct proceedings shall be the determination of whether a violation of University rules occurred. In all initial student conduct proceedings, the burden of proof shall rest with the University, and said burden of proof shall be by a preponderance of the information. Preponderance of the information is defined as the greater weight and degree of credible information admitted in the conference. The Student Conduct Panel's determination shall be made on the basis of whether it is more likely than not that the accused student violated the Student Conduct Code.

26.1.12. The accused student shall be informed of the outcome of the Student Conduct Conference.
26.1.13. There shall be a single verbatim record, such as a tape or digital recording, of all student conduct conferences before a Student Conduct Panel. Deliberations shall not be recorded. The record shall be the property of the University.

If an accused student with notice, does not appear at a student conduct conference, the information in support of charges shall be presented, considered, and a decision may be made. The Student Conduct Panel may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, accused student, and/or other witnesses during the conference. There is no entitlement to these accommodations and they shall be determined by the Student Conduct Administrator. The Student Conduct Administrator may also make reasonable accommodations to provide access for students with disabilities.

26.2. The following guidelines, in addition to those referenced in 26.1 as applicable, apply to Student Conduct Conferences in cases of alleged sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking, or retaliation for a report of one of these rules. (For Student Rule section 26.2 only, “complainant” means any person who is the alleged recipient of alleged behaviors concerning sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking that are currently under review by the Offices of the Dean of Student Life):

26.2.1. The complainant shall not be required to attend the student conduct conference. Student Conduct Conferences typically will be conducted in private and may involve joint conferences where two or more students are charged in the same fact pattern. Complainants shall only be privy to information pertaining to related charges of sexual misconduct, sexual harassment, dating violence, domestic violence, stalking, or retaliation for a report of one of these rules unless the accused student authorizes release of the accused student’s student record related to other charges.

26.2.2. The complainant shall have the opportunity to submit an impact statement detailing the alleged consequences suffered by the complainant. The complainant, complainant’s advisor, if any, and accused student, and accused student’s advisor, if any, shall be allowed to attend the entire portion of the student conduct conference at which information is received (excluding deliberations) related to charges of sexual misconduct, sexual harassment, dating violence, domestic violence, stalking, or retaliation for a report of one of these rules provided the parties appear at the designated time and do not inhibit the proceeding. Admission of any other person to the student conduct conference shall be at the discretion of the Student Conduct Administrator. The complainant shall not be required to attend the student conduct conference.

26.2.2.1 The complainant and the accused student will not be required to be physically present in the same room during the student conduct conference should either party request that they be separated.

26.2.3. The complainant has the right to be assisted by an advisor of his/her choice, at his/her own expense. In such cases, the complainant may be allowed to have an attorney serve as his/her advisor, at his/her own expense, to behave in the same manner as any other advisor. Students who are involved in the same fact pattern, or who are not in good standing with the University are not eligible to serve as an advisor at conduct proceedings. The complainant is responsible for presenting his/her own information. Therefore, a student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the student conduct conference. Student conduct conferences will not typically be delayed due to scheduling conflicts of an advisor.
The complainant and accused student have the right to be assisted by an advisor of their choice, at their own expense.

26.2.3.1. In such cases, the complainant and/or accused student may be allowed to have an attorney serve as their advisor, at their own expense, to behave in the same manner as any other advisor.

26.2.3.2. Students who are involved in the same fact pattern, or who are not in good standing with the University are not eligible to serve as an advisor at conduct proceedings.

26.2.3.3. The advisor may not be a witness or otherwise have any conflicting role in the process.

26.2.3.4. During the process, the advisor may not actively participate, directly address an involved university official, or advocate on behalf of the student.

The complainant and accused student are responsible for presenting their own information. Therefore, a complainant and accused student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the Student Conduct Conference. Student Conduct Conferences will not typically be delayed due to scheduling conflicts of an advisor. There is no restriction on who a complainant or accused student may consult or seek advice from, the restriction pertains to the student conduct conference only.

26.2.4. The complainant shall have the opportunity to request immediate on-campus housing relocation (based on available space), transfer of classes or other steps to prevent unnecessary or unwanted contact or proximity to the accused student, when such contact is likely to place the complainant in danger of bodily injury and/or cause the complainant severe emotional distress. The complainant, accused student, and/or Student Conduct Administrator may arrange for witnesses to present pertinent information during the student conduct conference. Witnesses may provide this information to and answer questions from the Student Conduct Panel, Student Conduct Administrator, accused student, and/or complainant. (Character statements shall be accepted in written form only.) The complainant shall have the opportunity to submit an impact statement detailing the alleged consequences suffered by the complainant.

26.2.5. The complainant, or, upon request, the surviving family member if the complainant dies as a result of the alleged misconduct, shall be informed of the outcome of the student conduct conference upon request. The proceedings and outcome of all student conduct conferences are considered confidential information in accordance with the Family Educational Rights and Privacy Act of 1974. Such information should not be otherwise re-disclosed.

26.2.6. An advisor, witness, or other participating party who is verbally abusive, disruptive to the process, or persists in trying to inappropriately and substantively participate in the process after being warned to cease and desist may be asked to leave and may be precluded from attendance at future meetings. The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor.

26.2.7. The complainant shall have the right to not have his/her past behavioral history discussed during the student conduct conference. Questions of relevancy shall be determined by the chairperson. As a general matter, the complainant's past behavioral history (including sexual history) is irrelevant and will not be discussed
in the Student Conduct Conference. Similarly, the accused student’s past behavioral history (including sexual history), unless a part of the accused student’s student file, is irrelevant and will not be discussed in the student conduct conference. However, the chairperson may permit information of past behavioral history in rare circumstances where the information is significantly useful in making a relevant disputed fact more or less true, and its value is not substantially outweighed by concerns of unfair prejudice and/or confusion.

26.2.78. In conduct conferences which may result in a University mandated separation from the University for the accused student, there shall be a single verbatim record, such as a tape or digital recording, of all student conduct conferences before a Student Conduct Panel. Deliberations shall not be recorded. The record shall be the property of the University.

26.3. Appeals

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.

A decision reached by the Student Conduct Panel or a sanction imposed by the Student Conduct Administrator may be appealed by the accused student(s), or in cases of sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking the complainant, to an appeal panel within five (5) University business days of the decision. Such appeals shall be in writing and shall be delivered to the coordinator of the appeals process or his/her designee.

Rules regarding the Student Conduct Code and related actions are listed in Part III, Student Life Rules, Grievance Procedures (See sec. 51). An appeal panel may uphold the sanction(s) imposed by the original Student Conduct Panel and/or Student Conduct Administrator or the appeal panel may modify the sanction(s) imposed by the original Student Conduct Panel and/or Student Conduct Administrator. If sufficient information is presented that may have materially altered the decision of the original conference and was not or could not have been known at the time of the original conference, the appeal panel may require that the case be heard again by a Student Conduct Panel administered by the Offices of the Dean of Student Life.

Following an appeal, the matter shall be considered final and binding upon all involved.

26.4. An open conference may be held only if all students involved provide written consent to disclose any and all information which might be released from their educational record during the course of the hearing. Final determination shall be at the sole discretion of the hearing officer(s).
MEMORANDUM

DATE: July 13, 2018

TO: Julie Harlin
Speaker, Faculty Senate

FROM: Dr. Anne Rebe
Chair, Rules and Regulations Committee

SUBJECT: Proposed Revisions to the Texas A&M Student Rules

Attached please find proposed revisions to the Texas A&M University Student Rules as approved by the Rules and Regulations Committee. These changes are for the following section:

Change to Rule 27 Sanctions (Section 27.1.2, 27.1.3 and 27.1.5)
Proposed New Wording:
(1) Revise third bullet under 27.1.2 Suspension, Not in Good Standing to remove "when the length of the period of not in good standing is greater than one semester" and ", and, therefore, ineligibility may result from a lesser length of not in good standing". Instead, it should read as follows:

- Ineligibility to receive a University administered scholarship if the period of “not in good standing” begins before scholarship funds are disbursed for the semester. In this case, funds will be cancelled and the student considered not eligible. If the period of “not in good standing” begins after the funds have disbursed for the semester, the student will keep the funds so long as the period of “not in good standing” does not extend beyond that same semester. Some scholarships adhere to more strict guidelines. This sanction implies a serious offense and must be uniformly applied by the office administering the scholarship upon notification by the University Conduct Administrator. The student may request the reinstatement of eligible multi-year scholarships when again considered in good standing with the university. Reinstatement scholarships is subject to donor approval and the availability of funds. The student must also otherwise meet scholarship requirements to request reinstatement (GPR, hours).

(2) Revise 27.1.3. Conduct Probation to add:
Because the student is not in good standing while on Conduct Probation, the student will be subject to scholarship ineligibility similar to Suspension.

(3) Revise 27.1.5 Restrictions to add:
Because the student is not in good standing while on Restrictions, the student will be subject to scholarship ineligibility similar to Suspension.

Justification
This revision is needed in order to document that Texas A&M University honors the written commitment to and expectations of scholarship donors, Texas A&M University, the Texas A&M Foundation, and The Association of Former Students include the following standard verbiage in gift agreements providing scholarship funds: "this endowment will be used to provide one or more scholarships to full-time students in good standing pursuing a degree from Texas A&M University in College Station, Texas."

Although Scholarships & Financial Aid has been operating as noted in the revisions, the written rule does not clearly and specifically communicate consequences to students relative to institutional scholarship eligibility. Note: This does not impact a student's eligibility for Federal, State, nor institutional financial aid programs.
PROPOSED BY:

Name: Nora Cargo  
Phone: 979-458-5310  
E-Mail Address: ncargo@tamu.edu  
Department: Scholarships & Financial Aid  
Department Mail Stop: 1252 TAMU  
Date: June 29, 2018
27. Sanctions

(Revised: 2013-2018)

One and/or any combination of sanctions may be imposed for any single student conduct code violation.

27.1 University Sanctions:

27.1.1 Expulsion: Separation of the student from the University whereby the student is not eligible for readmission to this University.

27.1.2. Suspension: Separation of the student from the University for a definite period of time. The student is not guaranteed readmission at the end of such period of time, but is guaranteed a review of the case and a decision regarding eligibility for readmission. The suspension takes effect when the appeal for the offense is exhausted, waived or time limit has passed. Suspensions may be implemented in one of two ways: immediate implementation of suspension or deferred implementation of suspension. The sanction of suspension may be placed in deferred status. If the student is found in violation of any University rule during the time of deferred suspension, the suspension takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be applied. A student who has been issued a deferred suspension sanction is deemed “not in good standing” with the University.

Not in good standing: A student who is not in good standing is subject to the following restrictions:

- Ineligibility to hold an office in any student organization recognized by the University or to hold any elected or appointed office of the University.
- Ineligibility to represent the University in any way, including representing the University at any official function, intercollegiate athletics or any forms of intercollegiate competition or representation. This includes events taking place both on and off of the University campus.
- Ineligibility to receive a University administered scholarship when the length of the period of not in good standing is greater than one semester. If the period of “not in good standing” begins before scholarship funds are disbursed for the semester. In this case, funds will be cancelled and the student considered not eligible. If the period of “not in good standing” begins after the funds have disbursed for the semester, the student will keep the funds so long as the period of “not in good standing” does not extend beyond that same semester. Some scholarships adhere to more strict guidelines, and, therefore, ineligibility may result from a lesser length of not in good standing. This sanction implies a serious offense and must be uniformly applied by the office administering the scholarship upon notification by the University Conduct Administrator. The student may request the reinstatement of eligible multi-year scholarships when considered in
good standing with the university. Reinstatement of scholarships are subject to donor approval and the availability of funds. The student must also otherwise meet scholarship requirements to request reinstatement (GPR, hours).

- Additional restrictions or conditions also may be imposed, depending on the nature and seriousness of the misconduct.

At the end of the suspension period, the student is eligible for reenrollment. Actual admission to the University will be determined by the academic rules in place at the time of application for reenrollment.

27.1.3. Conduct Probation: An official warning that the student’s conduct is in violation of Texas A&M University Student Rules, but is not sufficiently serious to warrant expulsion or suspension. A student on conduct probation is deemed “not in good standing” with the University. If there is a finding of responsibility for subsequent violations of the student rules during this period of time, more severe sanctions may be administered. Because the student is not in good standing while on Conduct Probation, the student will be subject to scholarship ineligibility similar to Suspension.

27.1.4. Conduct Review: An official warning that the student’s conduct is in violation of Texas A&M University Student Rules, but is not sufficiently serious to warrant expulsion, suspension, or conduct probation. A student on conduct review shall have their conduct under review for a specified period of time. This sanction may require regular meetings with an appropriate official to ascertain and evaluate compliance with student rules. Additional restrictions or conditions also may be imposed, depending on the nature and seriousness of the misconduct. Students placed on this sanction remain in good standing with the University. If there is a finding of responsibility for subsequent violations of the Student Rules during this period of time, more severe sanctions may be administered.

27.1.5. Restrictions: The withdrawal of specified privileges for a definite period of time, but without the additional stipulations contained in the imposition of a sanction which results in a student being not in good standing. The restrictions involved will be clearly defined. Because the student is not in good standing while on Conduct Probation, the student will be subject to scholarship ineligibility similar to Suspension.

27.1.6. Restitution: A payment for financial injury to an innocent party in cases involving theft, destruction of property or deception. The assessed costs to be paid may be in addition to receipt of any of the above sanctions.

27.1.7. Community/University Service: A student may be offered an opportunity to complete a specified number of hours of Community/University Service. The type of Community/University Service must be approved by the Student Conduct Administrator.

27.1.8. Educational Requirements: A provision to complete a specific educational requirement. Such educational requirements may include, but are not limited to, completion of an alcohol education workshop, a diversity awareness workshop, essays, reports, reflective writing assignments, etc.
27.1.9. *Letter of Enrollment Block*: A letter stating that the student may not reenter Texas A&M University without prior approval through the Offices of the Dean of Student Life or the Vice President for Student Affairs if enrollment has been blocked for a previous student conduct problem or for medical reasons.

27.1.10. *Letter of Reprimand*: A letter that makes a matter of record any incident that reflects unfavorably on the student or the University.

27.2. **Campus Housing Sanctions:**

The occupants of each residence hall, by majority vote, have the power to establish additional “in house” rules as approved by the Department of Residence Life. Generally, “in house” rule infractions are handled by residence life staff or the Residence Life Staff.

27.2.1. *Loss of Campus Housing Privilege*: Removal from university housing for conduct reasons.

27.2.2. *Deferred Loss of Campus Housing Privilege*: The sanction of Loss of Campus Housing Privilege may be placed in deferred status. If a student is found in violation of any University rule during the time of the deferred sanction, removal from housing takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be taken. In addition, a student is ineligible to hold an elected or appointed office in any affiliated housing organization. This includes but is not limited to the following offices/positions: president, vice president, secretary, treasurer, RHA delegate.

27.2.3. *Campus Housing Probation*: An official notice that the student’s conduct is in violation of residence hall rules, University Apartments rules and/or University rules and that more stringent student conduct sanctions, including removal from housing, may result if future violations occur. In addition, a student is ineligible to hold an elected or appointed office in any affiliated housing organization. This includes but is not limited to the following offices/positions: president, vice president, secretary, treasurer, RHA delegate.

27.3. In addition to any of the sanctions listed in this section, members of the Corps of Cadets are subject to disciplinary action in accordance with *The Standard*.

27.4. **Interim Suspension**

A student may not be expelled or suspended prior to a student conduct proceeding except when the Dean of Student Life believes that an interim suspension should be imposed.

Interim suspension may be imposed only to ensure the safety and well-being of members of the University community or guest, or preservation of University property; to ensure the student’s own physical or emotional safety and well-being; and/or if the student poses an ongoing threat of disruption of, or interference with, the normal operations of the University. A student conduct proceeding will be scheduled as soon thereafter as practicable.
27.4.1. During the interim suspension, a student may be denied access to campus housing and/or the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible.

27.4.2. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a student conduct conference, if required. However, the student should be notified in writing of this action and the reasons for the interim suspension. The notice should include the time, date, and place of a subsequent conference at which the student may show cause as to why his/her continued presence on the campus does not constitute a threat [and at which s/he may contest whether a campus rule was violated].
MEMORANDUM

DATE:    July 13, 2018

TO:      Julie Harlin
Speaker, Faculty Senate

FROM:    Dr. Anne Reber
Chair, Rules and Regulations Committee

SUBJECT: Proposed Revisions to the Texas A&M Student Rules

Attached please find proposed revisions to the Texas A&M University Student Rules as approved by the Rules and Regulations Committee. These changes are for the following section:

Change to Rule 27 Sanctions (Section 27.4.2)
PROPOSAL

Please see attached rule for extensive changes

JUSTIFICATION

At a student’s interim suspension conference (the conference reference in this section), the student may dispute the facts of the initial report. However, the decision makers who are determining whether the student’s presence on campus poses a continuing threat do not make any determinations regarding whether a student rule was violated. The determination as to whether a student rule was violated would occur later at a student’s conduct conference.

PROPOSED BY:

Name: Dayna Ford
Phone: 979-847-7272
E-Mail Address: daynaf@studentlife.tamu.edu
Department: Offices of the Dean of Student Life
Department Mail Stop: 1257 TAMU
Date: May 16, 2018
27. Sanctions

(Revised: 2013-2018)

One and/or any combination of sanctions may be imposed for any single student conduct code violation.

27.1 University Sanctions:

27.1.1 Expulsion: Separation of the student from the University whereby the student is not eligible for readmission to this University.

27.1.2. Suspension: Separation of the student from the University for a definite period of time. The student is not guaranteed readmission at the end of such period of time, but is guaranteed a review of the case and a decision regarding eligibility for readmission. The suspension takes effect when the appeal for the offense is exhausted, waived or time limit has passed. Suspensions may be implemented in one of two ways: immediate implementation of suspension or deferred implementation of suspension. The sanction of suspension may be placed in deferred status. If the student is found in violation of any University rule during the time of deferred suspension, the suspension takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be applied. A student who has been issued a deferred suspension sanction is deemed “not in good standing” with the University.

Not in good standing: A student who is not in good standing is subject to the following restrictions:

- Ineligibility to hold an office in any student organization recognized by the University or to hold any elected or appointed office of the University.
- Ineligibility to represent the University in any way, including representing the University at any official function, intercollegiate athletics or any forms of intercollegiate competition or representation. This includes events taking place both on and off of the University campus.
- Ineligibility to receive a University administered scholarship when the length of the period of not in good standing is greater than one semester. Some scholarships adhere to more strict guidelines, and, therefore, ineligibility may result from a lesser length of not in good standing. This sanction implies a serious offense and must be uniformly applied by the office administering the scholarship upon notification by the University Conduct Administrator.
- Additional restrictions or conditions also may be imposed, depending on the nature and seriousness of the misconduct.

At the end of the suspension period, the student is eligible for reenrollment. Actual admission to the University will be determined by the academic rules in place at the time of application for reenrollment.
27.1.3. Conduct Probation: An official warning that the student's conduct is in violation of Texas A&M University Student Rules, but is not sufficiently serious to warrant expulsion or suspension. A student on conduct probation is deemed "not in good standing" with the University. If there is a finding of responsibility for subsequent violations of the student rules during this period of time, more severe sanctions may be administered.

27.1.4. Conduct Review: An official warning that the student's conduct is in violation of Texas A&M University Student Rules, but is not sufficiently serious to warrant expulsion, suspension, or conduct probation. A student on conduct review shall have their conduct under review for a specified period of time. This sanction may require regular meetings with an appropriate official to ascertain and evaluate compliance with student rules. Additional restrictions or conditions also may be imposed, depending on the nature and seriousness of the misconduct. Students placed on this sanction remain in good standing with the University. If there is a finding of responsibility for subsequent violations of the Student Rules during this period of time, more severe sanctions may be administered.

27.1.5. Restrictions: The withdrawal of specified privileges for a definite period of time, but without the additional stipulations contained in the imposition of a sanction which results in a student being not in good standing. The restrictions involved will be clearly defined.

27.1.6. Restitution: A payment for financial injury to an innocent party in cases involving theft, destruction of property or deception. The assessed costs to be paid may be in addition to receipt of any of the above sanctions.

27.1.7. Community/University Service: A student may be offered an opportunity to complete a specified number of hours of Community/University Service. The type of Community/University Service must be approved by the Student Conduct Administrator.

27.1.8. Educational Requirements: A provision to complete a specific educational requirement. Such educational requirements may include, but are not limited to, completion of an alcohol education workshop, a diversity awareness workshop, essays, reports, reflective writing assignments, etc.

27.1.9. Letter of Enrollment Block: A letter stating that the student may not reenter Texas A&M University without prior approval through the Offices of the Dean of Student Life or the Vice President for Student Affairs if enrollment has been blocked for a previous student conduct problem or for medical reasons.

27.1.10. Letter of Reprimand: A letter that makes a matter of record any incident that reflects unfavorably on the student or the University.

27.2. Campus Housing Sanctions:
The occupants of each residence hall, by majority vote, have the power to establish additional “in house” rules as approved by the Department of Residence Life. Generally, “in house” rule infractions are handled by residence life staff or the Residence Life Staff.

27.2.1. Loss of Campus Housing Privilege: Removal from university housing for conduct reasons.

27.2.2. Deferred Loss of Campus Housing Privilege: The sanction of Loss of Campus Housing Privilege may be placed in deferred status. If a student is found in violation of any University rule during the time of the deferred sanction, removal from housing takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be taken. In addition, a student is ineligible to hold an elected or appointed office in any affiliated housing organization. This includes but is not limited to the following offices/positions: president, vice president, secretary, treasurer, RHA delegate.

27.2.3. Campus Housing Probation: An official notice that the student’s conduct is in violation of residence hall rules, University Apartments rules and/or University rules and that more stringent student conduct sanctions, including removal from housing, may result if future violations occur. In addition, a student is ineligible to hold an elected or appointed office in any affiliated housing organization. This includes but is not limited to the following offices/positions: president, vice president, secretary, treasurer, RHA delegate.

27.3. In addition to any of the sanctions listed in this section, members of the Corps of Cadets are subject to disciplinary action in accordance with The Standard.

27.4. Interim Suspension

A student may not be expelled or suspended prior to a student conduct proceeding except when the Dean of Student Life believes that an interim suspension should be imposed.

Interim suspension may be imposed only to ensure the safety and well-being of members of the University community or guest, or preservation of University property; to ensure the student’s own physical or emotional safety and well-being; and/or if the student poses an ongoing threat of disruption of, or interference with, the normal operations of the University. A student conduct proceeding will be scheduled as soon thereafter as practicable.

27.4.1. During the interim suspension, a student may be denied access to campus housing and/or the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible.

27.4.2. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a student conduct conference, if required. However, the student should be notified in writing of this action and the reasons for the interim suspension. The notice should include the time, date, and place of a subsequent conference at which the student may show cause as to why his/her continued presence
on the campus does not constitute a threat [and at which s/he the student may contest whether a campus rule was violated the facts of the initial report are accurate].
MEMORANDUM

DATE: July 13, 2018

TO: Julie Harlin
   Speaker, Faculty Senate

FROM: Dr. Anne Reber
       Chair, Rules and Regulations Committee

SUBJECT: Proposed Revisions to the Texas A&M Student Rules

Attached please find proposed revisions to the Texas A&M University Student Rules as approved by the Rules and Regulations Committee. These changes are for the following section:

Change to Rule 47
PROPOSAL

Please see attached rule for extensive changes

JUSTIFICATION

Proposed changes will bring Student Rule 47 in alignment with changes to federal guidance (2017 Dear Colleague Letter), state laws (SB 968 & 969), TAMUS regulation 08.01.01, and review findings.

PROPOSED BY:

Name: Cynthia L. Hernandez, Ph.D.
Phone: 979-845-4728
E-Mail Address: cynthia.hernandez@tamu.edu
Department: Office of the Vice President for Student Affairs
Department Mail Stop: 1256 TAMU
Date: July 2018
Rule 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 2018)

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.

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.

<table>
<thead>
<tr>
<th>Location</th>
<th>Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>College Station campus</td>
<td>Dean of Student Life</td>
</tr>
</tbody>
</table>
| Campus outside of College Station | College of Dentistry - [Associate Dean for Student Affairs](#)  
|                                 | College of Medicine - [Associate Dean for Student Affairs](#)  
|                                 | College of Pharmacy - [Associate Dean for Student Affairs](#)  
|                                 | College of Nursing - [Associate Dean for Student Affairs](#)  
|                                 | School of Public Health - [Associate Dean for Student Affairs](#)  
|                                 | School of Law - [Assistant Dean for Student Affairs](#)  
|                                 | Mays Business School (Houston) – [Dean of Student Life](#)  
|                                 | Galveston - [Assistant Vice President for Student Affairs](#)  
|                                 | Qatar - [Executive Director for Student Affairs and Academic Services Director of Student Affairs](#)  
| All other locations             | [Dean of Student Life](#) |

### 47.2 Reporting to Law Enforcement

Individuals have the option, of **but are not required**, to 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.

The Title IX Coordinator, Official Contact, or designee can assist individuals in contacting the police if desired. The University will not contact police without the reported victim’s permission except where there is an immediate threat to health or safety and/or as otherwise required by law. Reporting to law enforcement does not preclude a complainant from filing a complaint with the University.

If a complainant has obtained an ex parte order of protection, full order of protection, or any other temporary restraining order or no contact order against the accused student from a criminal, civil, or tribal court, the complainant may provide such information to the Title IX Coordinator or Dean of Student Life. If provided, the Title IX Coordinator or Dean of Student Life, in conjunction with the University Police Department, will take all reasonable and legal action to implement the order.

### 47.3 Confidential Reporting Options [Resources](#)
Confidential communication cannot legally be disclosed to another person without the consent of the individual who originally provided the information, except under very limited circumstances such as allegations of elderly, disabled or child abuse; an imminent threat of injury or to the life of any person; or as required by law.

Students have the opportunity to speak with a variety of staff on campus and in the community who are permitted by law to maintain confidential relationships including licensed health care personnel and sexual assault advocates who have completed a training program approved by the Attorney General of Texas, when acting in this capacity as part of their official employment.

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

- Students enrolled on a Brazos County campus may report speak to a licensed health care personnel confidentially through at 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 off-site instructional locations outside of Brazos County (College of Dentistry, College of Medicine, College of Pharmacy, College of Nursing, and School of Public Health Dallas, Fort Worth, McAllen, etc.) can be made through the Associate Dean for Student Affairs staff 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.

Throughout the process, complainants and accused students may have an advisor of their choice present at any meeting related to the investigation, conduct process, and appeal. An advisor of choice may include an attorney at the student's own expense. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. During the process, the advisor may not actively participate, directly address an involved university official, or advocate on behalf of the student. An advisor who is verbally abusive, disruptive to the process, or persists in trying to substantively participate in the process after warnings to cease and desist may
be asked to leave and may be precluded from attendance at future meetings. The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. The advisor may not be a witness or otherwise have any conflicting role in the process.

As **Student should be aware**, as outlined in System Regulation 08.01.01, all Texas A&M 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 to the appropriate University Official as outlined in University Rule 08.01.01.M1. Students and Third Parties are strongly encouraged (but not required) to should also promptly report an incident.

Reports are filed with the Official Contacts below:

<table>
<thead>
<tr>
<th>If the Alleged Offender is a Student (Main Campus, off site locations, and distance education students)</th>
<th>Then the Official Contact is:</th>
</tr>
</thead>
</table>
| Dean of Student Life  
Student Affairs at White Creek  
College Station, TX 77843-1257  
studentlife@tamu.edu  
(979) 845-3111 | |

| Campus outside of College Station | College of Dentistry – Associate Dean for Student Affairs  
College of Medicine – Associate Dean for Student Affairs  
College of Pharmacy – Associate Dean for Student Affairs  
College of Nursing – Associate Dean for Student Affairs  
School of Public Health – Associate Dean for Student Affairs  
School of Law – Assistant Dean for Student Affairs  
Mays Business School (Houston) – Dean of Student Life  
Galveston – Assistant Vice President for Student Affairs  
Qatar – Director of Student Affairs |

| Student (Galveston Campus) | Assistant VP of Student Affairs  
Texas A&M University at Galveston  
Selbel Student Services Center #101G  
Galveston, TX 77553  
TitleIXStudents@tamug.edu  
(409) 740-4598 |

| Student (Qatar Campus) | Executive Director for Student Affairs and Academic Services  
Texas A&M University at Qatar  
Office 148A Engineering Building  
ryan.mclawthon@qatar.tamu.edu  
+974.4423.0181 |
Any individual may contact the **Title IX Coordinator**.

47.4.1 Anonymous Reporting Options

Individuals wishing to submit an anonymous report may choose not to identify themselves when speaking to an official contact and/or use the electronic reporting form found at [http://Tell Somebody.tamu.edu](http://Tell Somebody.tamu.edu) (TAMU at Galveston students - [http://www.tamug.edu/care/Tell_Somebody.html](http://www.tamug.edu/care/Tell_Somebody.html)). Anonymous reporting may limit the University’s response to the allegation.

47.4.12 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 SSDSSR may be occurring.

Information shared with university personnel and officials who are not listed as confidential reporting options resources 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 them.

47.4.1.2 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.

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

47.5.2 The University will respond to complaints in a prompt, fair, and impartial 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.

If the complainant requests that no investigation of the allegations occurs the University will seek to honor the request whenever possible without impeding the University’s ability to protect the health and safety of the complainant and the University Community. The University reserves the right to initiate an investigation despite a complainant’s request not to in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the campus community.

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 determine not to proceed with an investigation unless additional information is provided. 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. Individuals will have an equal opportunity to present relevant witnesses and other evidence to the investigating authority. 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.
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 accused student 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 SSDSR.

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.

47.6.5.3 If no appeal is filed, both parties will be notified and informed that the results from the initial hearing are final.

47.7 Informal Resolution Procedures

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

47.7.21 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 facilitated by an appropriate university administrator provide an alternative method for stopping these behaviors. Generally, under informal procedures, the complainant and/or accused student may, at any time, elect to file a formal complaint pursue a formal resolution. 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.

47.7.2 Informal procedures, including mediation, will not be used to resolve the type of sexual harassment classified as sexual abuse.

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, transportation/parking options, work situations, 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 SSDSR complaint. Instances of retaliation will be investigated and may result in further conduct charges.

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 (See Student Rule 24.4.2.1) 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 a reasonable person similarly situated would 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 that 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 misconduct (non-consensual sexual intercourse and non-consensual sexual contact) and sexual exploitation. *(See Student Rule 24.1.10 for definition of Hostile Environment.)*

**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 her or his 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 activities 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. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(a) fear for the person’s safety or the safety of others; or
(b) suffer substantial emotional distress.

For the purposes of this rule:
(a) *Course of conduct* means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
(b) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
(c) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**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 rule 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.
- 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. (See Student Rule 24.1.11 for definition of incapacitation.)

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 rule. Each faculty member is entitled to full freedom in the classroom in discussing the subject which he or she teaches (see Committee 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)