

**Civil Rights  
Adjudication Training for  
Designated Administrators (DAs)  
in the  
Texas A&M University System**



July 2023

1

Civil Rights Adjudication Training

**NOTICE:**

This training material is provided for public review in accordance with federal law. The material may be utilized only for non-commercial educational and training purposes with the user assuming all risk for utilization of any content herein. Commercial utilization of this material is prohibited.

---

The Texas A&M University System 

2

## Civil Rights Adjudication Training

### **For this training...**

1. Assumes no previous knowledge on content areas
2. Presentation is text heavy and intended to serve as a reference document after the training
3. The presenter is not providing legal advice; the presenter is a compliance officer and is offering compliance guidance
4. Training intended to be complemented by local training provided by the Title IX Coordinator, EO Officer, and/or student conduct officers
5. Please note that the material being addressed in this program may involve explicit descriptions or details that some may find offensive, while others may find these materials triggering. Nothing is being done today simply for "shock value" but will be consistent with the real-world language and details that we are confronted with in this work. If you find yourself triggered, please step away to the degree that you need to, and please seek appropriate assistance if necessary.

---

The Texas A&M University System



3

3

## Civil Rights Adjudication Training

### **Agenda**

1. System Regulation 08.01.01
  - a) Overview of Civil Rights Complaint Resolution Processes
2. Role of the Designated Administrator
3. Due Process
4. Standards of Evidence
5. Reading an Investigation Report
6. Analyzing Evidence and Credibility
7. Deliberations and the Decision
8. Sanctioning

---

The Texas A&M University System



4

4



## Introduction of Post-Test

We are providing a test that we will be utilizing to test your knowledge following the training program. Please keep this document at hand throughout the training and make notes as needed.

Instructions for completing the post-test will be provided at the end of the training program. In order to serve as a Designated Administrator in the civil rights process, you must score at least an 80% on the post-test.



## System Regulation 08.01.01 and the Adjudicatory Process

### **08.01.01 Civil Rights Compliance**

Revised [July 7, 2020](#) (Effective August 14, 2020)  
Next Scheduled Review: July 7, 2025  
Click to view [Revision History](#).



#### **Regulation Summary**

The Texas A&M University System (system) will provide equal opportunity to all employees, students, applicants for employment and admission, and the public. This regulation provides guidance to each member in complying with local, state and federal civil rights laws and regulations (laws) and related system policy.



Civil Rights Adjudication Training

---

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

- Title IX (4.2.10)
- Sex-based Misconduct (4.2.11)
- Other Civil Rights (4.2.12)




---

The Texas A&M University System 

7

7

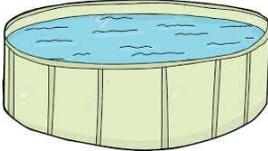
Civil Rights Adjudication Training

---

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

- 1. Title IX (4.2.10)
- 2. Sex-based Misconduct (4.2.11)
- 3. Other Civil Rights (4.2.12)



(a) When a complaint involves allegations of misconduct that involve both sex-based allegations (1 and/or 2 above) and allegations of other civil rights violations (3 above), the process shall be conducted under the requirements established for sex-based offenses (1 or 2 above). Sex-based complaints include those complaints based on sex, sexual orientation, and/ or gender identity.

---

The Texas A&M University System 

8

8

Civil Rights Adjudication Training

---

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

1. Title IX (4.2.10)
2. Sex-based Misconduct (4.2.11)
3. Other Civil Rights (4.2.12)



(b) In addition to reviewing complaints against students for civil rights violations, members are expected to review allegations for possible violations of codes of student conduct and professional expectations of employees.

---

The Texas A&M University System  9

9

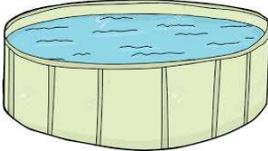
Civil Rights Adjudication Training

---

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

1. Title IX (4.2.10)
2. Sex-based Misconduct (4.2.11)
3. Other Civil Rights (4.2.12)



(c) When unprofessional behavior by an employee that does not rise to the level of a violation of this regulation is discovered during the civil rights investigation and adjudication process, the information will be forwarded to the employee’s supervisor.

---

The Texas A&M University System  10

10

Civil Rights Adjudication Training

---

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

1. Title IX (4.2.10)
2. Sex-based Misconduct (4.2.11)
3. Other Civil Rights (4.2.12)



(d) When possible violations of the code of student conduct by a student that do not rise to the level of a civil rights violation are discovered during the civil rights investigation process, and where there are no civil rights charges brought forward as a result of the investigation, the information will be forwarded for review to the student conduct process.

---

The Texas A&M University System  11

11

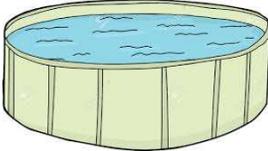
Civil Rights Adjudication Training

---

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

1. Title IX (4.2.10)
2. Sex-based Misconduct (4.2.11)
3. Other Civil Rights (4.2.12)

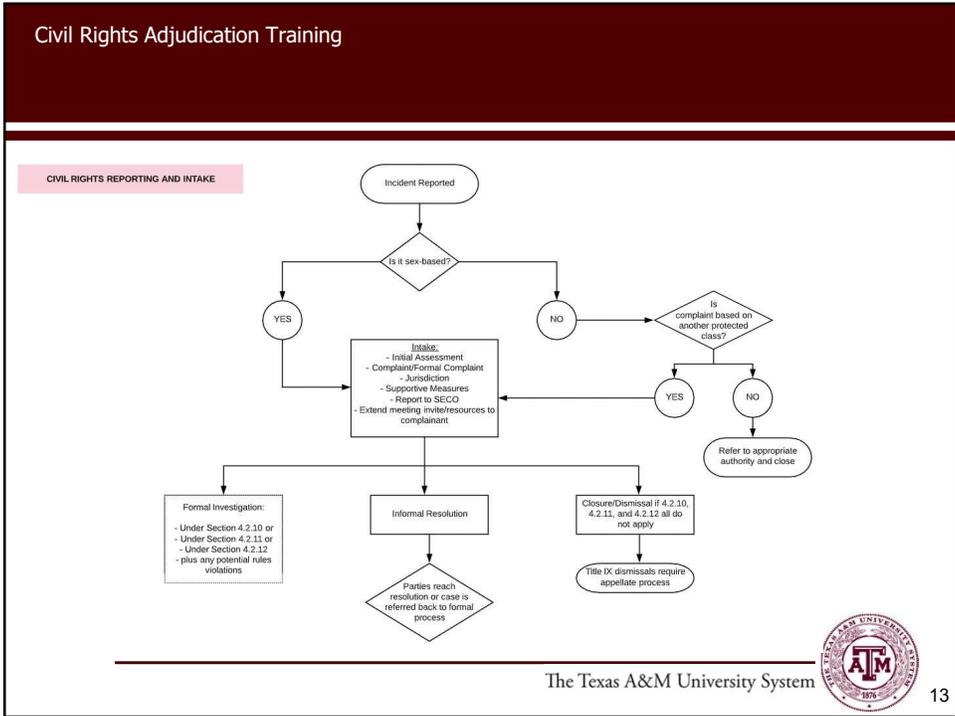


(e) When possible violations of the code of student conduct by a student that do not rise to the level of a civil rights violation are discovered during the civil rights investigation process, and where there is also going to be an adjudication of the civil rights violation (through a formal hearing, or through informal resolution methods that result in a finding and sanction), the case will be consolidated into one adjudication conducted under the processes described in 4.2.9(a).

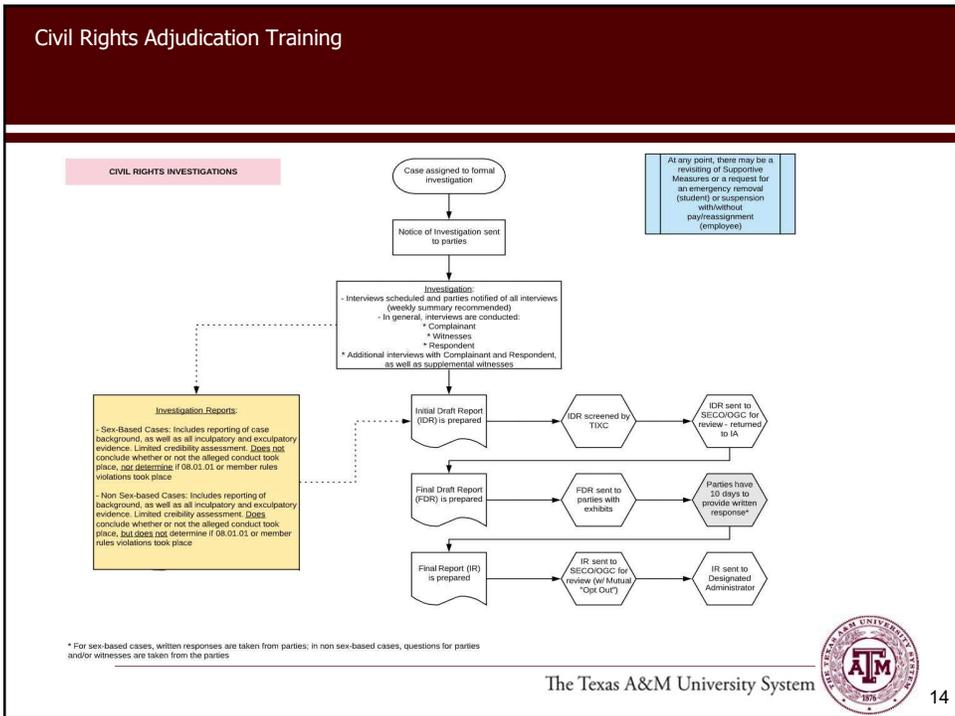
---

The Texas A&M University System  12

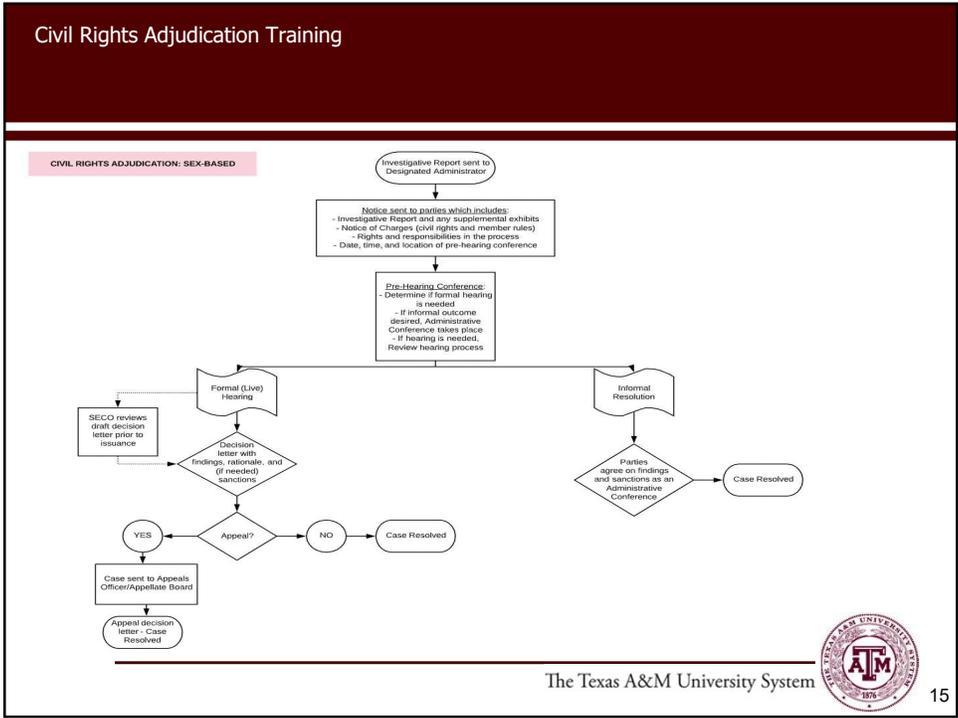
12



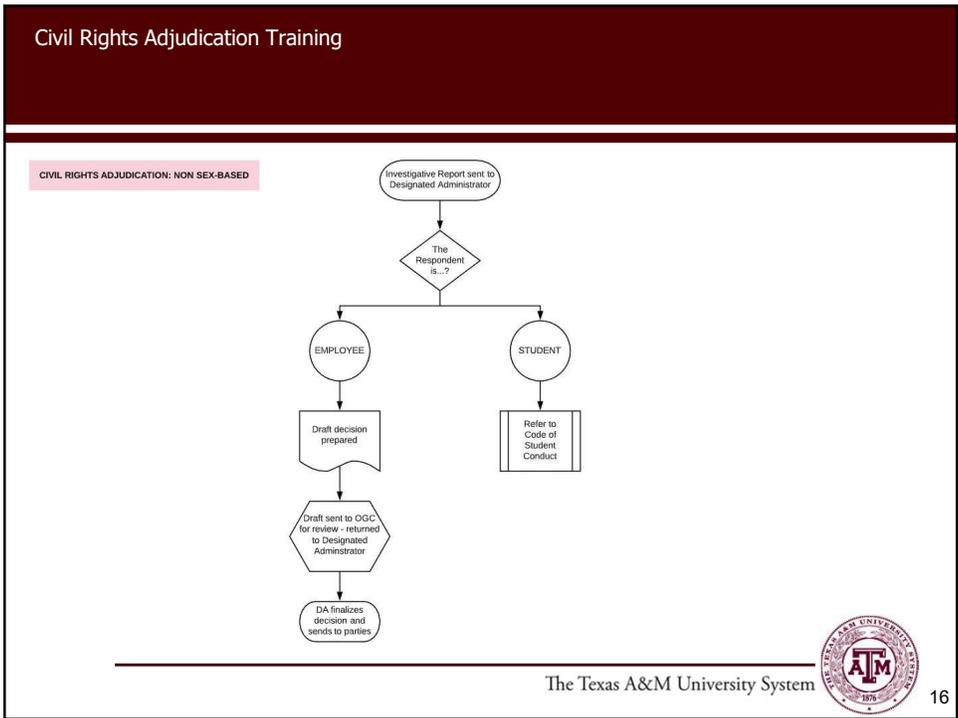
13



14



15



16

### Civil Rights Adjudication Training

	TITLE IX (4.2.10)	SEX-BASED MISCONDUCT (4.2.11)	OTHER CIVIL RIGHTS (4.2.12)	STUDENT CONDUCT / EMPLOYEE PROFESSIONALISM
Supportive Measures	Yes	Yes	Yes	Yes
Requires	Formal Complaint	Report/Complaint	Report/Complaint	Awareness and Evidence
Standard of Evidence	Preponderance	Preponderance	Preponderance	Preponderance
Informal Resolution Allowed?	Yes – with SECO approval	Yes – with SECO approval	Yes – with SECO approval	Yes
Role of Investigative Authority	Collect and report inculpatory and exculpatory evidence	Collect and report inculpatory and exculpatory evidence	Collect and report inculpatory and exculpatory evidence; conclude if allegations are substantiated but not if 08.01.01 or member rules were violated	Refer to Member Rules and appropriate System Regulation
Adjudication	Formal (Live) Hearing	Formal (Live) Hearing	Written Review	Refer to Member Rules and appropriate System Regulation
Adjudicator	Hearing Officer or Hearing Panel (in role of DA)	Hearing Officer or Hearing Panel (in role of DA)	Designated Administrator	Refer to Member Rules and appropriate System Regulation
Allowed an Advisor?	Yes – provided by Member for formal hearing if no advisor is present	Yes – provided by member for formal hearing if no advisor is present	Yes	Yes
Role of Advisor	Cross-examination and Support	Cross-examination and Support	Support	Support
For a Finding...	Severe and Pervasive and Objectively Offensive (SPOO) <b>OR</b> Quid Pro Quo (employee respondents only)	Severe or Persistent or Pervasive and Objectively Offensive (hostile environment) <b>OR</b> Quid Pro Quo	Severe or Persistent or Pervasive and Objectively Offensive	Did it take place? Does it violate the published rule/expectation?
Appeal?	Yes	Yes	No	Refer to Member Rules and appropriate System Regulation


17

17

### Civil Rights Adjudication Training




18

18

## Civil Rights Adjudication Training

The Role of the Adjudicatory Process / The Hearing Officer


---

 The Texas A&M University System


19

19

## Civil Rights Adjudication Training

The Role of the Adjudicatory Process (Hearings and Deliberations)

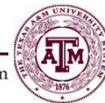
The role of the adjudicatory (hearing) process is:

- to review all the inculpatory and exculpatory evidence that is available,
- to see and hear the information presented, and
- to allow the parties to present information and to challenge information

The role of the deliberations process is:

- to reflect on both the information provided and your assessment of the credibility of the parties in determining what took place,
- to utilize your determination of what took place to assess whether the civil rights regulation and/or member rules were violated, and
- when determining that violations have taken place, to develop and impose sanctions that promote growth and development, repair harm caused, and protect the broader safety interests of the community.

---

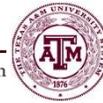
 The Texas A&M University System


20

20

***"Hear the case before you decide it."***

- Judge Alfred P. Murrah, (b1904-d1975, U.S. Court of Appeals for the Tenth Circuit and Director of the Federal Judicial Center)



21

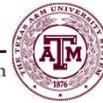
The Role of the Adjudicatory Process (Hearings and Deliberations)

The successful hearing official:

- reviews all written information at least two days in advance of the hearing and notes areas for exploration and questioning,
- understands that their primary initial focus is to determine what happened,
- understands they can only determine what happened by considering all of the available evidence,
- relies only on the facts and information in evidence, and does not allow information outside of the hearing to factor into a determination,
- reaches credibility determinations based on observable facts and not on hunches or suspicions,
- never considers sanctioning or the implications of sanctions until a finding has been rendered, and
- creates sanctions that are intentional, designed for education and development, seek to repair harm, and to protect the members of the broader institutional community.



22

The Hearing Officer

23

The Designated Administrator**Six Critical Qualities of the DA**

- Detached/Objective with respect to subject matter
- Impartial/Unbiased when it comes to the parties involved
- Only considers facts that are in evidence; recognizing that what is considered “in evidence” may change up through the end of the hearing
- Understands issues of relevance with respect to questions and evidence
- Reaches a finding of fact before considering potential sanctions
- Imposes sanctions proportionate to the violation that are designed to educate, repair harm, and protect the community



24

Civil Rights Adjudication Training

---

The Designated Administrator

**Critical Skills / Knowledge Base of the DA**

- Reading
- Interpreting information
- Standards of evidence
- Types of evidence
- Credibility determinations
- Deliberations
- The finding of fact
- Sanctioning

---

The Texas A&M University System  25

25

Civil Rights Adjudication Training

---



---

The Texas A&M University System  26

26

Civil Rights Adjudication Training

---

Due Process




---

The Texas A&M University System  27

27

Civil Rights Adjudication Training

---

Due Process

Who has authority over you... how many jurisdictions do you live in? (POLL)

- International Law
- Federal Law
- State Law
- County/Municipalities
- Professional
- Personal

---

The Texas A&M University System  28

28

## Due Process

Do all of these jurisdictions provide the same due process elements if there is a conflict? (POLL)

NO --- they do not, but why not?



29

## Due Process

Due process is the process that is due to us based on:

- The nature of the relationship
- The rights or privileges at stake

The greater the potential loss of rights, the higher amount of process that is due.



30

## Civil Rights Adjudication Training

Due Process

- President James Madison (Dem-Rep., 4<sup>th</sup> President)
  - Authored the 5<sup>th</sup> Amendment to the U.S. Constitution; ratified in 1791
  - 5<sup>th</sup> Amendment requires due process of law in order for the government to deprive an individual of **life, liberty, or property**
  - 5<sup>th</sup> Am. prohibits self-incrimination and double jeopardy in criminal proceedings
  - 5<sup>th</sup> Amendment protections date back to the Magna Carta (1215)
- Senator Jacob Howard (Rep., Michigan)
  - Worked closely with President Lincoln on passage of 13<sup>th</sup> Amendment to abolish slavery
  - Served on Joint Committee on Reconstruction
  - Drafted the 14<sup>th</sup> Amendment, which requires equal protection under the law for all persons born or naturalized in the United States; ratified in 1868
  - Reversed (USSC) Dred Scott decision that black persons were not citizens
  - **Due process clause guarantees substantive and procedural process in state legal proceedings (14<sup>th</sup> Amendment is primary source of due process in higher education)**
  - Privileges or Immunities Clause protects individual state citizenship from interference by other states



The Texas A&amp;M University System

31

31

## Civil Rights Adjudication Training

Due Process in Higher Education (students)

Can we impose the death penalty on our community members? NO

Can we imprison our community members? NO

Can we deprive our community members of substantial property???

Separate rights from privileges...

Once we extend a privilege, revoking it may require due process, most especially when we are altering the relationship between the individual and the institution



The Texas A&amp;M University System

32

32

Civil Rights Adjudication Training

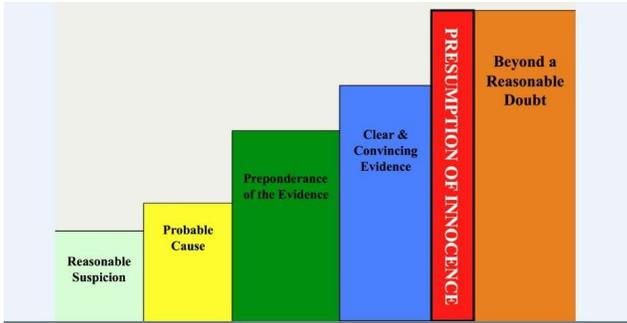


The Texas A&M University System  33

33

Civil Rights Adjudication Training

### Standards of Evidence



Standard of Evidence
Reasonable Suspicion
Probable Cause
Preponderance of the Evidence
Clear & Convincing Evidence
<b>PRESUMPTION OF INNOCENCE</b>
Beyond a Reasonable Doubt

The Texas A&M University System  34

34

Civil Rights Adjudication Training

---

Standards of Evidence

**Beyond a Reasonable Doubt...**

Meaning: No other logical explanation can be derived from the facts except that the defendant committed the crime for which they are charged, thereby overcoming the presumption that a person is innocent until proven guilty.

~ 90-99% certainty

Where do we use this in society, and why?

Do we use this in the 08.01.01 process? If so, where?



The Texas A&M University System  35

35

Civil Rights Adjudication Training

---

Standards of Evidence

**Clear and Convincing Evidence...**

Meaning: The party must present evidence that leaves you with a firm belief or conviction that it is highly probable that the factual contentions of the claim or defense are true.

~ 67-75% certainty

Where do we use this in society, and why?

Do we use this in the 08.01.01 process? If so, where?



The Texas A&M University System  36

36

Civil Rights Adjudication Training

---

Standards of Evidence

**Preponderance of the Evidence...**

Meaning: What is more likely than not to be true, based on probable truth or accuracy. There is neither a presumption of guilt, nor a presumption of innocence.

50.1% + certainty

Where do we use this in society, and why?

Do we use this in the 08.01.01 process? If so, where?



The Texas A&M University System  37

37

Civil Rights Adjudication Training

---

Standards of Evidence

**Substantial Evidence (Probable Cause)...**

Meaning: Reasonable grounds for making a search, making an arrest, or pressing a charge.

~ 40% + certainty

Where do we use this in society, and why?

Do we use this in the 08.01.01 process? If so, where?



The Texas A&M University System  38

38

Civil Rights Adjudication Training

---

Standards of Evidence

**Reasonable Suspicion (Notice)...**

Meaning: Specific facts (more than a “hunch” or a “scintilla” of evidence) that justify further investigation.

~ 25% + certainty

Where do we use this in society, and why?

Do we use this in the 08.01.01 process? If so, where?



The Texas A&M University System  39

Civil Rights Adjudication Training

---

Standards of Evidence

**Uses of Evidentiary Standards (conduct and civil rights)**

1. Notice and Gate-keeping (Reasonable Suspicion)
2. Bringing a charge (Substantial Evidence)
3. Finding a violation (Preponderance of the Evidence)
4. Determining appeals (Preponderance of the Evidence, with presumption that original decision is correct)



The Texas A&M University System  40

Civil Rights Adjudication Training

---

Standards of Evidence

**Uses of Evidentiary Standards (conduct and civil rights)**

It is not uncommon that people express a concern that someone might be terminated from employment or suspended or expelled from a university while using "only" a preponderance of the evidence as a basis for this decision.

Do you share this concern?

Allow me to help dispel this understandable fear for those that may have it.



The Texas A&M University System  41

41

Civil Rights Adjudication Training

---

Standards of Evidence

**Uses of Evidentiary Standards (conduct and civil rights)**

Is it possible that we can make a mistake when employing a preponderance of the evidence test?

**Does the criminal justice system ever make mistakes employing a "beyond a reasonable doubt" standard?**

All human decision-making involves the possibility of making mistakes.

**Our goal is to make the best decision possible, based on the best available information that exists in evidence.**

The better you **do your job**, the lower the risk of a mistake. This training is designed to teach each of us what our roles are in this process, and what we need to do to reduce our risk of making a mistake.



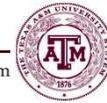
The Texas A&M University System  42

42

## Civil Rights Adjudication Training

Standards of Evidence**Why do we utilize the preponderance standard?**

- It is the only equitable standard, applying no undue burden on either the complainant or the respondent
- We utilize a preponderance test because it is most reflective of the educational nature of our System
- We utilize a preponderance test because it is provided for by the federal government, and used by the federal government for the purposes of civil rights enforcement
- Finally, a preponderance test is far easier to teach and train with than the clear and convincing standard, which can be a variable standard

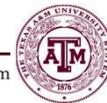


43

## Civil Rights Adjudication Training

Standards of Evidence**What does applying a preponderance test look like? Let's apply a fact pattern -**

- RA Smells Marijuana
- 2<sup>nd</sup> RA Independently Confirms Smell
- Initial Confrontation and Delay
- Open Door and Smoke in Room; towel rolled up behind door
- Bloodshot Eyes for all 4 people in room
- Claiming they were watching a movie and fell asleep; confusion on what movie
- Cold outside; fan in window blowing out
- Incense burning; can of air freshener on dresser
- Blow tube under the bed that smells of cannabis



44

Civil Rights Adjudication Training

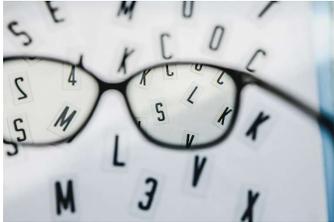


The Texas A&M University System  45

45

Civil Rights Adjudication Training

Reading an Investigation Report



The Texas A&M University System  46

46

### Reading an Investigation Report

- A. Read report no less than two days prior to writing a decision
- B. Review for:
  - i. Understanding the nature of the complaint
  - ii. Understanding the timeline of the event(s)
  - iii. Understanding the specific allegations made against the respondent(s)
  - iv. Understanding the inculpatory evidence collected in the investigation
  - v. Understanding the exculpatory evidence collected in the investigation
  - vi. Understanding the investigator's interpretation of:
    - a) Disputed Facts
    - b) Credibility of parties/witnesses
  - vii. Reviewing exhibits as is needed to understand the information presented



47

### Types of Evidence



48

Civil Rights Adjudication Training

---

Types of Evidence

1. Direct\* (first-hand, physical evidence)
2. Circumstantial\* (physical evidence with inferences)
3. Documentary (reports, texts, etc.)
4. Hearsay
5. Expert
6. Character

\*The U.S. Supreme Court has stated that "circumstantial evidence is intrinsically no different from testimonial [direct] evidence"(Holland v. United States, 348 U.S. 121, 75 S. Ct. 127, 99 L. Ed. 150 [1954]). Thus, the distinction between direct and circumstantial evidence has little practical effect in the presentation or admissibility of evidence.

---

The Texas A&M University System  49

49

Civil Rights Adjudication Training

---

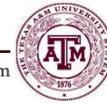


---

The Texas A&M University System  50

50

## Deliberations and the Finding of Fact



51

### Deliberations

#### Order of deliberations:

- What happened? Develop a narrative of what you believe took place, based solely on facts in evidence, and accounting for all inculpatory and exculpatory information presented
- Make credibility determinations where conflicting information is present
- Develop a finding of fact (a summary of what happened that includes specific conclusions about behavior)
- Based on the finding of fact, is there a violation of published rules and regulations?
- If a violation is found, proceed to sanctioning. Note: Sanctioning is never to be considered prior to the establishment of a finding of fact.



52

## Civil Rights Adjudication Training

Deliberations

## Writing an effective finding of fact:

- Should be reasonably brief (in most cases) yet also highly specific as to what took place (one to two paragraphs, based on allegations)
- Should provide sufficient information to allow either party to appeal, as well as assist an appeals administrator/panel in understanding your conclusions
- Should be written towards both/all parties; do not personalize
- Remember your potential audiences...
  - Complainant
  - Respondent
  - Appellate Officer(s)
  - OGC/SECO
  - Lawyers/advisors
  - Parents
  - Media/Social Media
  - Judge
  - Department of Education

---

 The Texas A&M University System


53

53

## Civil Rights Adjudication Training

Deliberations

## Writing an effective finding of fact:

- Should be reasonably brief (in most cases) yet also highly specific as to what took place (one to two paragraphs, based on allegations)
- Should provide sufficient information to allow either party to appeal, as well as assist an appeals administrator/panel in understanding your conclusions
- Should be written towards both/all parties; do not personalize
- Remember your potential audiences...
  - Complainant
  - Respondent
  - Appellate Officer(s)
  - OGC/SECO
  - Lawyers/advisors
  - Parents
  - Media/Social Media
  - Judge
  - Department of Education

---

 The Texas A&M University System


54

54

## Civil Rights Adjudication Training

Sample Finding (Fake)

After reviewing all of the information available, I have determined that Ms. Smith is in violation of the following University Rules and Regulations: Acts of Dishonesty, Threatening and Intimidation.

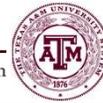
## Findings of Fact

My specific findings are as follows:

1. You engaged in the harassment of Mr. Jones via electronic means despite being told to leave him alone, causing him to fear for his safety.
2. Your communications with Mr. Jones were of a hostile and threatening nature.
3. Your story was not credible.

---

The Texas A&M University System



55

55

## Civil Rights Adjudication Training

Sample Finding (Actual)

After reviewing all of the information available, I have determined that Ms. Smith is in violation of the following University Rules and Regulations: Acts of Dishonesty, Threatening and Intimidation.

## Findings of Fact

My specific findings are as follows:

1. Ms. Smith engaged in intentional communication with Mr. Jones via electronic means despite numerous verbal and text requests on the part of Mr. Jones for this communication to cease. After being blocked by Mr. Jones, Ms. Smith used the devices of other individuals to continue communicating with Mr. Jones. Ms. Smith's continual refusal to abide by Mr. Jones' wishes created an ongoing disruption to his daily life and provoked a reasonable fear for his own well-being.
2. Ms. Smith's written communications with Mr. Jones were of a hostile and threatening nature, repeatedly referring to Mr. Jones in disparaging terms (i.e., "asshole," "rapist," and "faggot."). Further, the written communications included threats to Mr. Jones' property (car) and suggestive that something physically "unfortunate" might happen to him.
3. Ms. Smith's initial account to police was not fully accurate, and her story continued to "evolve" over time in the telling. Ms. Smith's statements to police, investigators, and this hearing officer were inconsistent, contradictory, and sought to minimize both the frequency and nature of her ongoing contact with Mr. Jones, as well as denying the existence of any threats..

---

The Texas A&M University System



56

56

Civil Rights Adjudication Training



The Texas A&M University System  57

57

Civil Rights Adjudication Training

# Credibility



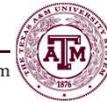
The Texas A&M University System  58

58



## Credibility Assessments

The credibility of parties and witnesses can greatly influence the outcome of our complaint resolution processes, and the federal government expects us to assess the credibility of parties and witnesses in sex-based processes. But credibility is not often well-understood. Just how can someone be deemed to be credible and another person be considered not credible, or how can a person maintain credibility in one area of the investigation and lose it in another?



## Credibility Factors

- Plausibility
- Relevance
- Consistency
- Bias
- False Information
- Admissions





## Credibility Factors

### Plausibility

Plausibility is a measure of believability and likelihood:

- Is conceivable and/or supported by corroborating evidence
- The less likely something is to be true, the greater the evidence required to establish a likely outcome
- In general (Occam's Razor, Probability Theory, etc.), when all things are equal the simpler option is the more likely, barring sufficient evidence to the contrary
- Plausibility is more affected by the quality of the evidence rather than the quantity of it

---


The Texas A&M University System

61

Civil Rights Adjudication Training



## Credibility Factors

### Relevance

Relevance is a measure of whether or not the evidence is germane to the allegation(s) under review

- Is offered by someone who could reasonably have such knowledge
- Is inculpatory or exculpatory by itself, or reinforces the conditions under which inculpatory or exculpatory evidence is being evaluated
- Relates substantively to the specific allegations and/or specific pattern of behavior rather than to "like" incidents, circumstances, or people

---


The Texas A&M University System

62



## Credibility Factors

### Consistency

Consistency is a measure of the reliability of the information and the people providing it

- Does not contradict itself over multiple tellings (major inconsistencies versus minor inconsistencies)
- Comes from a source that cannot be substantively discredited



## Credibility Factors

### Bias

Bias is a measure of the degree to which people's stories may be influenced by the people involved, the subject matter involved, and/or their own experiences

- Bias of parties/witnesses for or against individuals
- Bias of parties/witnesses based on the subject matter
- Bias of parties/witnesses based on their own experiences
- Bias brought into an investigation by the investigator(s)
- Bias brought into a review by a Designated Administrator



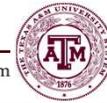


## Credibility Factors

### False Information

If someone is demonstrated to have provided false information during the process, it presents a challenge to their credibility in the overall process

- What did they provide false information about?
- Did they acknowledge providing false information?
- Why were they providing false information?
- Does this carry over into portions of their participation or can it be seen as more limited?

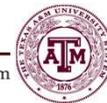


## Credibility Factors

### Admissions

If someone admits to wrongdoing, does that add to or detract from their credibility overall?

- What are they admitting to?
- Why are they admitting to it?
- Is their admission supported by the available evidence?
- Is the admission seeking to mitigate damage and consequence or does it present as a true acceptance of responsibility?





## Credibility Activity

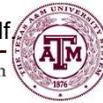
**Activity #5**

### Scale of Credibility

Based solely on the information provided, please rank the following people from most credible (1) to least credible (5).

1. An underaged respondent who lies about an alcohol violation during an investigation over a sexual assault allegation.
2. A complainant making an allegation about something that happened between the complainant and respondent without any evidence or witnesses.
3. A witness unrelated to both parties who observed the incident in question.
4. A respondent who lies about their alibi for the day of the incident in question.
5. A witness for the respondent who provides evidence on their behalf

The Texas A&M University System



67

67



## Credibility Assessments

### Initial Draft Report

#### - Preferred Credibility Statements:

- The investigator found no cause to question the credibility of statements made by Doe.
- The investigator found that Smith's credibility was challenged by...
  - Cite Persuasiveness, Relevance, Consistency, Bias, False Information, or Admission factor(s)
- The investigator found that Ortega's credibility was reinforced by...
  - Cite Persuasiveness, Relevance, Consistency, Lack of Bias, Corroboration, or Admission factor(s)

The Texas A&M University System



68

68

Civil Rights Adjudication Training



The Texas A&M University System  69

69

Civil Rights Adjudication Training

Sanctioning



The Texas A&M University System  70

70

Civil Rights Adjudication Training

---

Sanctioning

1. Sanctioning Goals
2. Sanctioning Formula
3. Sanctioning Grid for Sex-Based Cases



The Texas A&M University System  71

71

Civil Rights Adjudication Training

---

Sanctioning Goals

1. Education and Development
2. Restoration (reparation of harm to individual and the academic community)
3. Balance between individual being sanctioned and the academic community

Our stated goals for sanctioning never include punishment, nor do we explicitly reference deterrence. This is not to say that sanctions we impose are not perceived as punishments, but simply that it is never our explicit intent.

The Texas A&M University System  72

72

Civil Rights Adjudication Training

---

Sanctioning Formula

1. Nature of the behavior +
2. Prior disciplinary history of respondent +
3. Aggravating factors +
4. Mitigating Factors = Sanction

Sanctions are the creation of learning outcomes intended for the situation and the behavior; “active” and “inactive” sanctions are then selected to achieve the intended outcomes. These intended outcomes should be communicated via the decision letter as a rationale for the sanction.

---

The Texas A&M University System  73

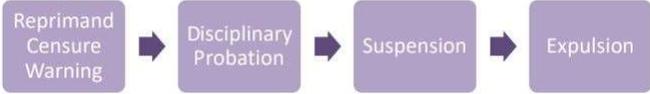
73

Civil Rights Adjudication Training

---

Inactive Sanctions

Inactive sanctions are official, written university responses to misconduct that generally do not require any action by the respondent. These sanctions (with the exception of suspension and expulsion) generally do not explicitly serve as teaching tools, but instead provide a baseline for sanctions for any future conduct violations.



```

graph LR
    A["Reprimand  
Censure  
Warning"] --> B["Disciplinary  
Probation"]
    B --> C["Suspension"]
    C --> D["Expulsion"]
  
```

It is important to emphasize that disciplinary suspensions should be conditional on, and reinstatement only allowed upon, successful completion of all assigned active sanctions.

---

The Texas A&M University System  74

74

## Civil Rights Adjudication Training

Active Sanctions

Active sanctions are generally those designed to achieve learning outcomes by the student respondent by providing them with information and/or experiences that help them deepen their understanding of university expectations and cause them to reflect on the implications of their own actions.

Examples of active sanctions include:

- Assessment, treatment, and/or education for alcohol and other drug issues
- Workshops (e.g., healthy relationships, conflict management, anger management)
- Counseling assessment
- Interviews and educational essays
- Guided reflection papers

---

The Texas A&M University System



75

75

## Civil Rights Adjudication Training

Active Sanctions

Active sanctions in sex-based cases should generally not place the student respondent in a setting with either the complaining party or other vulnerable parties (such as a shelter or support group).

Additionally, other active sanctions can solidify interim measures and/or deter further contact between the parties, such as contact restrictions and restrictions from specific campus areas or activities (remedies).

In general, there should be (except in cases of permanent expulsion) a pairing of inactive and active sanctions that address all desired learning outcomes. All active sanctions should have written reflection components assigned to them that are then included in the student's conduct record.

---

The Texas A&M University System



76

76



## **Post-Test**

[https://tamusofficeofit.iad1.qualtrics.com/jfe/form/SV\\_5BePMI4rxRIAnj0](https://tamusofficeofit.iad1.qualtrics.com/jfe/form/SV_5BePMI4rxRIAnj0)

Please complete the post-test by 5:00 pm on Friday, August 11, 2023.



77

If you have any questions after the conclusion of this program, please contact Rick Olshak at [rolshak@tamus.edu](mailto:rolshak@tamus.edu).



78