

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



March 2023

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.

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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.



## 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
9. Case Study



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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](#).


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**Regulation Summary**

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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.

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5

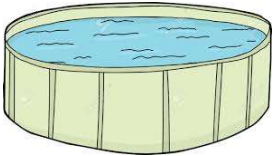
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System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

- [Title IX \(4.2.10\)](#)
- [Sex-based Misconduct \(4.2.11\)](#)
- [Other Civil Rights \(4.2.12\)](#)



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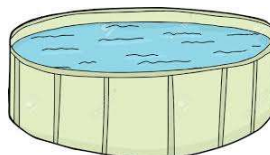
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System Regulation 08.01.01

## 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.

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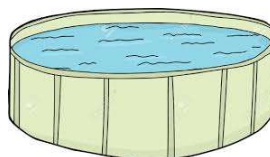

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System Regulation 08.01.01

## 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.

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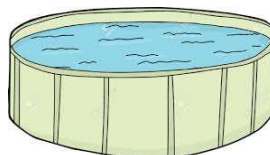

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System Regulation 08.01.01

## 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.

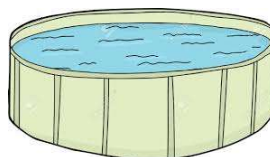


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System Regulation 08.01.01

## 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.

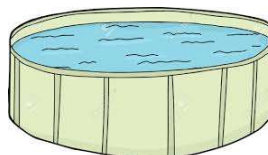


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System Regulation 08.01.01

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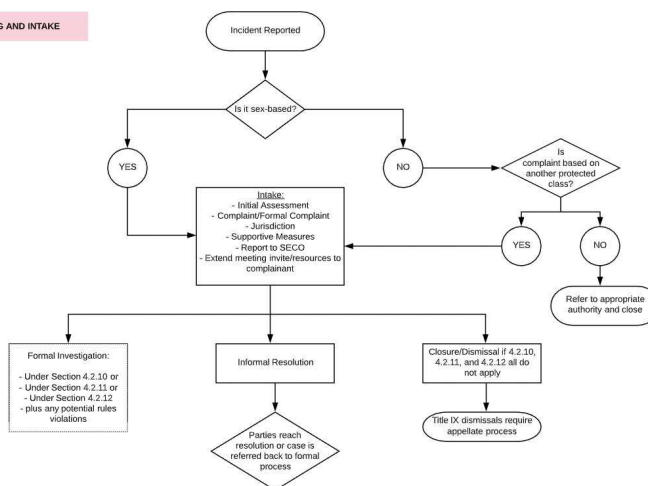


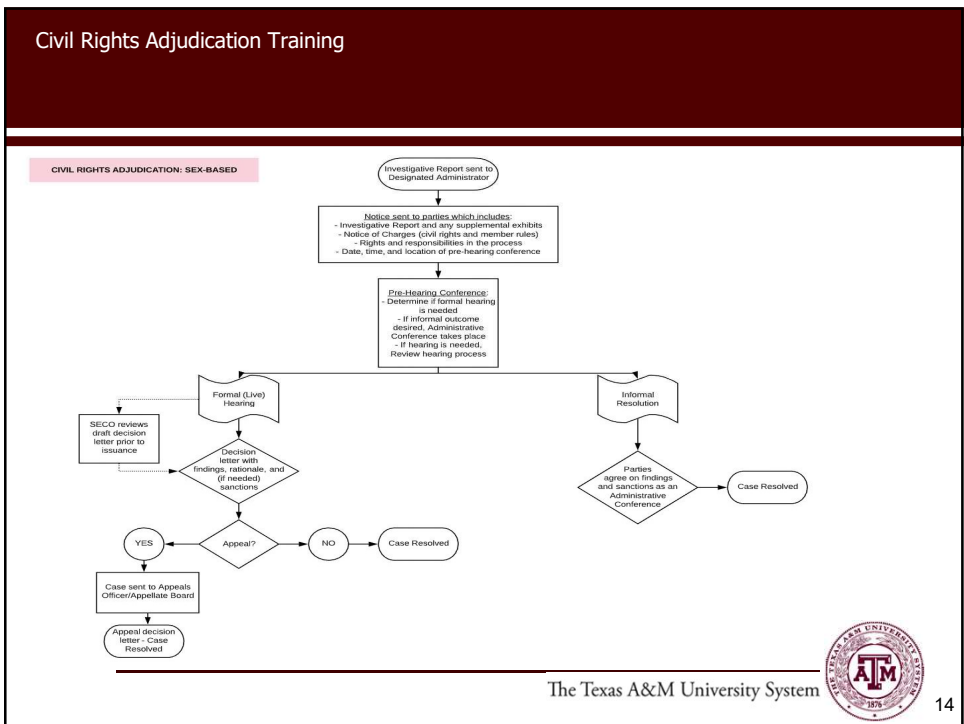
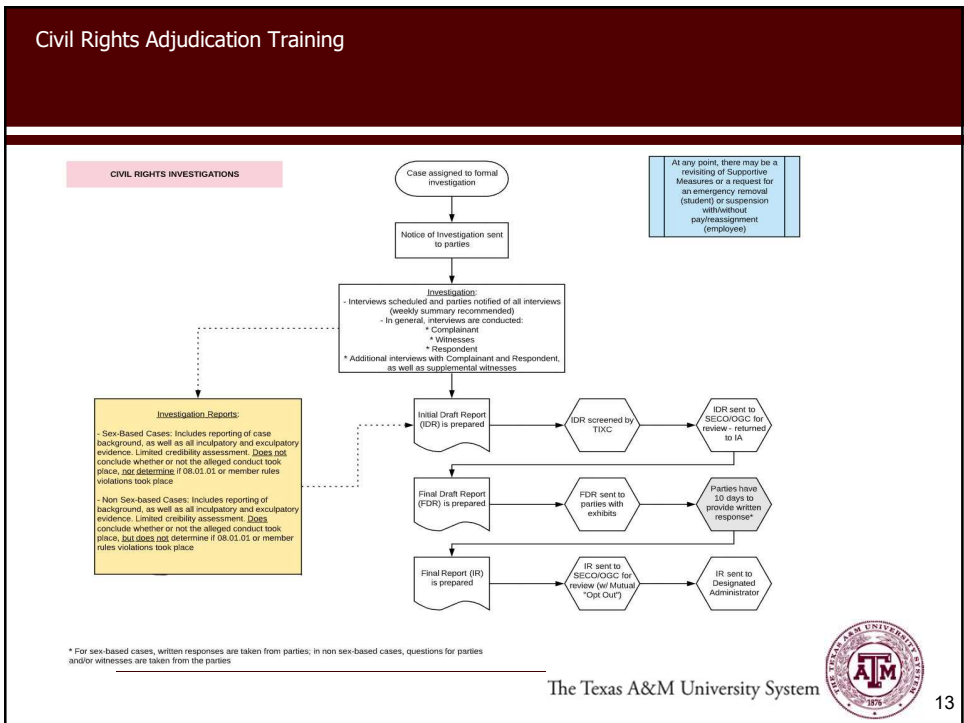
(e) When possible violations of the code of student conduct by a student that do not rise to the level of a civil rights violation are discovered during the civil rights investigation process, and where there is also going to be an adjudication of the civil rights violation (through a formal hearing, 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).



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CIVIL RIGHTS REPORTING AND INTAKE





### Civil Rights Adjudication Training

**CIVIL RIGHTS ADJUDICATION: NON SEX-BASED**

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graph TD
    A([Investigative Report sent to Designated Administrator]) --> B{The Respondent s...?}
    B --> C((EMPLOYEE))
    B --> D((STUDENT))
    C --> E[/Draft decision prepared/]
    E --> F{{Draft sent to OGC for review - returned to Designated Administrator}}
    F --> G([DA finalizes decision and sends to parties])
    D --> H[Refer to Code of Student Conduct]
    
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15

### 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) OR Quid Pro Quo (employee respondents only) | Severe or Persistent or Pervasive and Objectively Offensive (hostile environment) OR 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            |

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16




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The Role of the Adjudicatory Process / The Hearing Officer



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## 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.



## Civil Rights Adjudication Training

***"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)



## Civil Rights Adjudication Training

### 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.



## Civil Rights Adjudication Training

### The Hearing Officer



## Civil Rights Adjudication Training

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



## 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



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Due Process



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## 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



## 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?



## 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.



### 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



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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

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## Standards of Evidence

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## 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?

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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?



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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?



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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?



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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?



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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)



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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.



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## 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.



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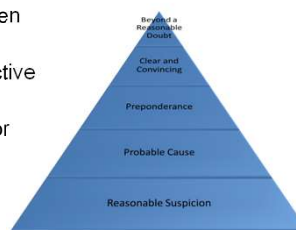


41

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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



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42

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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

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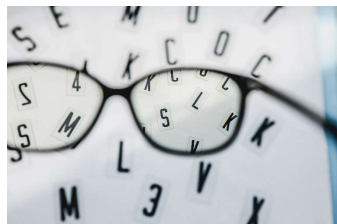


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## Civil Rights Adjudication Training

### Reading an Investigation Report



## Civil Rights Adjudication Training

### 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



## Types of Evidence



## 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.






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Deliberations and the Finding of Fact



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## Civil Rights Adjudication Training

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.



## 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 |



## Civil Rights Adjudication Training

Deliberations

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  - Complainant
  - Respondent
  - Appellate Officer(s)
  - OGC/SECO
  - Lawyers/advisors
  - Parents
  - Media/Social Media
  - Judge
  - Department of Education



## 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.



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### Sample Finding (Actual)

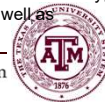
After reviewing all of the information available, I have determined that Ms. Smith is in violation of the following University Rules and Regulations: Acts of Dishonesty, Threatening and Intimidation.

#### 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..

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55

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56

## Credibility Determinations

**CREDIBLE  
SOURCE**



## Credibility Determinations

How can you determine if someone is a credible/truthful source of information?

Many rely on their "gut" (sometimes referred to as a "BS Meter"); but what does this mean?

Credibility comes down to:

- Persuasiveness
- Relevance
- Reliability
- Bias



## Civil Rights Adjudication Training

Persuasiveness

A person is persuasive if:

- their story is believable
- their story is not countered by more persuasive accounts
- their story is able to sustain challenges

Persuasiveness is not about the number of witnesses corroborating information, but rather the quality of the witnesses corroborating information



## Civil Rights Adjudication Training

Relevance

A person is considered relevant if:

- their story related to the substance of the allegations (party to, witness of, knowledge before or after the fact, or patterns of behavior)
- it is of sufficient value to matter in the determination of a finding of fact
- be offered by an individual with actual knowledge of the substance of the allegations and is not hearsay

Relevance relates to the specific incident in question and not "like" incidents; we are not interested in comparing apples to oranges, nor even apples to other apples; we only have an interest in a single apple.



## Civil Rights Adjudication Training

### Reliability

A person is considered relevant if:

- their story is consistent (or complementary) over multiple tellings
- it is of sufficient value to matter in the determination of a finding of fact
- be offered by an individual with actual knowledge of the substance of the allegations and is not hearsay

Relevance relates to the specific incident in question and not “like” incidents; we are not interested in comparing apples to oranges, nor even apples to other apples; we only have an interest in a single apple.



## Civil Rights Adjudication Training

### Bias

All people are biased. In providing information, it is important to own the bias that is present and to minimize its impact on the relaying of information.

For our purposes, we are concerned about three types of bias

- Bias towards or against people involved in the incident by a reporter of information
- Bias towards or against subject matter involved in the incident by a reporter of information
- Bias brought into a hearing by an adjudicator



## Civil Rights Adjudication Training

Bias**Bias towards or against people involved in the incident by a reporter of information:**

- What is the relationship between the reporter of information and the parties involved?
- What is the relationship between the reporter of information and the institution?
- While having a relationship with parties involved in an incident does not suggest that the person will be deceitful to aid or hurt the person's case, it may well "color" the person's recollection of the incident. Adjudicators can and should inquire about the strength of the relationship and seek to ask questions about portions of the incident that people may be less likely to prepare in advance.



## Civil Rights Adjudication Training

Bias**Bias towards or against subject matter involved in the incident by a reporter of information:**

In some instances, people's perceptions may be impacted by a bias regarding the conditions of the incident. Rather than trying to mislead an investigator, some reporters of information simply rely on assumptions about the people or circumstances involved in an incident, based on their own biases. When investigators hear people speaking in general terms about a situation, they should test the person's re-telling with more specific questions.

It is important to seek definitions on terms such as:

|             |          |
|-------------|----------|
| "Hooked up" | Stalking |
| "Creepy"    | Dating   |
| "Had sex"   | Abusive  |

Whenever reporters of information express strong feelings about a topic, it is important to seek to differentiate their feelings from their observations and/or involvement.





## Civil Rights Adjudication Training

Bias**Bias brought into an investigation by a DA:**

Designated Administrators are supposed to be “impartial”, yet there is no such thing as pure objectivity in human beings. As an adjudicator, it is important to be aware of the issues that serve as “hot buttons” for you and provoke emotional responses. Be cognizant of your bias as you hear the case, or in exceptional circumstances ask to be removed from the case.

Additionally, one common short-coming of adjudicators is their manufacturing of possible alternatives when attempting to arrive at a conclusion. Instead of listening to the information presented and weighing it appropriately, a common temptation is to begin “supposing” about what took place by introducing facts not offered by the parties or witnesses. It is critical that adjudicators only utilize the information provided to them in reaching a conclusion.

When we refer to “facts in evidence,” we mean those provided by the parties, the witnesses, or by the physical evidence.



## Civil Rights Adjudication Training



Civil Rights Adjudication Training

Sanctioning




The Texas A&M University System  67


This slide features a dark red header with the text "Civil Rights Adjudication Training". Below the header, the word "Sanctioning" is written in red and underlined. In the center of the slide is a cartoon illustration of a referee with a large brown mustache, wearing a black and white striped shirt, white pants, and a black cap. At the bottom of the slide, there is a horizontal line, the text "The Texas A&M University System", the university's logo, and the number "67".

Civil Rights Adjudication Training

Sanctioning

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



The Texas A&M University System  68

This slide features a dark red header with the text "Civil Rights Adjudication Training". Below the header, the word "Sanctioning" is written in red and underlined. To the left of the center is a numbered list with three items: "1. Sanctioning Goals", "2. Sanctioning Formula", and "3. Sanctioning Grid for Sex-Based Cases". To the right of the list is a cartoon illustration of a referee with a large brown mustache, wearing a black and white striped shirt, white pants, and a black cap. At the bottom of the slide, there is a horizontal line, the text "The Texas A&M University System", the university's logo, and the number "68".

## 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.



## 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.



## 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.



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



## 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



## 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.



## Civil Rights Adjudication Training

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

