Sexual Harassment / Misconduct
What YOU need to know

It’s about respect!

TAMUCC Employees
Legal Rights, System Policies, & Procedures

- Title IV & VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments 1972
- TAMUS - Civil Rights Compliance 08.01
- TAMUCC – Policies/Procedures
- OCR / DOJ requires mandatory Prevention and Training (annually)
Title IV, VII & Title IX: What are they?

**Title IV:** prohibits discrimination against *students* on the basis of sex, race, color, religion, or national origin.

**Title VII:** prohibits discrimination in *employment* on the basis of sex, race, color, religion or national origin.

**Title IX:** forbids sex discrimination in all instances surrounding student services (including athletic), employment (faculty/staff) and recruitment consideration or selection including any discrimination based on pregnancy.

*IV and IX Connection:* both condition an offer of federal funding on a promise by the university not to discriminate. Both are enforced via the Department of Justice (DOJ).

*Individuals can also face consequences based on their personal actions.*
TAMUCC will protect students and employees (staff/faculty/student workers) and address all allegations in connection with academic, educational, extracurricular, athletic and other programs that occur:

+ On-campus
+ Off-campus activities that are school-related (TAMUCC bus/vehicle, class at another location, field trip)
+ Retaliation

OCR guidelines state: TAMUCC is responsible (must respond) if it knew or reasonably should have known of the conduct, and failed to promptly take reasonable steps to end it and prevent reoccurrence, and address its effects.
Clery Act

- TAMUCC must publish an **annual report** disclosing campus security policies and several years of crime statistics for current students, new students and prospective students/families.
- TAMUCC must make **timely warnings** to the campus community about crimes that pose an **ongoing threat** to students and employees.
- TAMUCC must have a public crime log.
- The U.S. Department of Education centrally collects and disseminates these crime statistics.
- TAMUCC community sexual assault victims are assured of certain basic rights.
The *Campus Sexual Violence Elimination (SaVE) Act* increases transparency on campus about incidents of sexual violence, guarantees victims enhanced rights, sets standards for disciplinary proceedings, and requires campus-wide prevention education programs. The *Campus SaVE Act* amends the *Clery Act*, which addresses campus sexual assault policies within the Higher Education Act of 1965.

President Obama signed *SaVE* into law on March 7, 2013 as part of the *Violence Against Women Act (VAWA) Reauthorization*. 
SaVE ACT

Requires incidents of domestic violence, dating violence, sexual assault, and stalking be disclosed in annual campus crime statistic reports.

Students or employees reporting victimization will be provided with their written rights to:

+ Be **assisted** by campus authorities if reporting a crime to law enforcement;
+ **Change** academic, living, transportation, or working situations to avoid a hostile environment;
+ Obtain or enforce a **no contact** directive or restraining order;
+ Have a **clear description of TAMUCC’s disciplinary process and know the range of possible sanctions**; and
+ Receive **contact information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available** both on-campus and in the community.
Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school. When such harassment is based on race, color, national origin, sex, or disability, it violates the civil rights laws that OCR enforces.

“Schools are responsible for addressing harassment incidents that it knows or reasonably should have known.”

“A school has notice of harassment if a reasonable employee knew, or in the exercise of reasonable care should have known, about the harassment.”
Sexual harassment and sexual violence are forms of sex discrimination and are violations of Title IX.

Types of Harassment under Title IX:
- Quid Pro Quo
- Hostile Environment
- Retaliatory Harassment
Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; employment or academic decisions and conditions are based upon whether the targeted individual is willing to grant sexual favors.

*Example:* Submission to sexual conduct in exchange for a particular grade, favorable graduate school or job recommendations, or selection as a captain of a varsity sports team.
Hostile Environment

- Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature which is sufficiently severe or pervasive so as to alter the conditions of a student’s education by interfering with the student’s ability to benefit from the educational program.

- The perpetrator may be an employee, fellow student or a visitor.
Retaliation

+ Under both Title VII (employee sexual harassment) and Title IX (student sexual harassment) it is unlawful to retaliate against an individual who has:
  + made a complaint of sexual harassment;
  + participated in the investigation of such a complaint (i.e., witnesses); or
  + opposed conduct that is reasonably believed to violate Title VII or Title IX
Sexual Misconduct

Sexual misconduct is defined as *any* physical act of a sexual nature perpetrated against an individual without consent or when an individual is unable to freely give consent.

Sexual misconduct also includes sexual exploitation (defined as taking non-consensual, unjust sexual advantage of another for one’s benefit or the benefit of another party), gender-based relationship violence, and gender-based stalking.

These acts may or may not be accompanied by the use of coercion, intimidation, or through advantage gained by the use of alcohol or other drugs.
Consent

Sexual activity requires consent: positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent cannot be inferred from the absence of a "no." Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply present or future consent.

Consent cannot be obtained by threat, coercion, or force.

Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition. A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual activity with a person whom you know -- or reasonably should know -- to be incapacitated constitutes sexual misconduct.

Alcohol or drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and effectively given.
Other Offenses

- Hazing
- Bullying
- Violence between those in an intimate relationship to each other (including Dating Violence, Domestic Violence, Sexual Assault)
- Sexual Bullying
- Cyber bullying
- Stalking
Take Immediate Action

+ Go to a safe place as soon as you can. If you are at your residence, secure all doors and windows.

+ If sexually assaulted on campus notify the University Police Department (825-4444). If sexually assaulted off campus notify the appropriate law enforcement agency (911).

+ Seek medical attention.

+ Preserve all evidence if possible (do not bathe, douche, wash hands, brush teeth, change clothes or linens, eat or drink).

+ Seek counseling either on campus or off campus.
Faculty and staff who receive complaints of sexual harassment or sexual violence of students are **obligated** to report complaints to their department head or the Title IX Coordinator:

Mr. Samuel Ramirez, Title IX Coordinator or Ms. Rosie Ruiz, Title IX Deputy Coordinator, 361–825–5827, or complaint.resolution@tamucc.edu

Students should be directed to their advisor/department chair or the ED&CS. The ultimate purpose is to prevent sexual harassment and/or sexual misconduct on campus, promptly address reported issues, and limit the effects of harassment on the educational environment.

ED&CS will immediately initiate an investigation into all allegations.

http://tder.tamucc.edu/Title%20IX%20-%20Sexual%20Respect.html
Where/How Can I Report An Incident:

- Your Supervisor
- Employee Development and Compliance Services, CCH130 (361) 825-5826
- University Police Department (361) 825-4444
- **Confidential reporting**: University Counseling Center (361) 825-2703
- **Confidential reporting**: University Health Center (361) 825-2601

*Note – a criminal investigation is different than a Title IX investigation*
Online Reporting Options

- **Complaint Resolution**
  
  http://www.tamucc.edu/marcom/complaints/

- **Incident Reporting**
  
  https://publicdocs.maxient.com/incidentreport.php?TexasAMUnivCC

ED&CS works confidentially with our relevant TAMUCC offices and within the boundaries of all laws.
Your Responsibilities

- Monitor your own personal behaviors
- Treat all complaints seriously
- Empower each other
- Report incidents of sexual misconduct or sexual harassment
- Keep yourself informed of the University’s Policy’s and Rules, & Procedures

http://academicaffairs.tamucc.edu/Rules_Procedures/
Risk Reduction

- If you consume alcohol, do so in moderation
- Do not leave your beverage unattended
- Communicate your limitations clearly
- Tell your friends where you are going and with whom
- Know your right to say NO
- Have contingent plans (taxi money / ride home)
- Utilize “buddy system”
- Be aware of your surroundings
- Keep car and homes locked at all times
- Know where a phone is at all times
Bystander Intervention

Encourages people to identify situations that might lead to Sexual Misconduct and then safely intervene to prevent misconduct. *Ways to intervene:*

- Make up an excuse to get a person out of a potentially dangerous situation
- Let an individual know that actions may lead to consequences
- Don’t leave someone who may be in trouble
- Take steps to curb other’s alcohol intake
- Call authorities as soon as warranted
Resources

Judicial Affairs

Title IX Coordinator
(Employee Development & Compliance Services Office)

University Police Department Crime Victims

Counseling Center

Health Center

Student Engagement & Success (SES)

ICARE

Women’s Shelter – 800-580-HURT (5878)
Please contact any of the following with any questions:

Sam Ramirez  x 2765
Rosie Ruiz  x 2530
Diane Hockenberry  x 2367
Shannon McClellan  x 2187