



Faculty and Staff Mandatory Reporting Requirements for Sexual Misconduct Title IX Compliance Committee

Effective September 1, 2019, all faculty and staff members of the campus community are considered Mandatory Reporters under Texas law. This means that all employees must promptly report incidents of Sexual Misconduct. "Sexual Misconduct" means:

- (1) **Sexual harassment**, defined as unwelcome, sex-based, verbal or physical conduct that: (A) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or (B) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities as a postsecondary educational institution;
- (2) **Sexual Assault, Dating Violence, Domestic Violence, and Stalking**, as defined by the Clery Act; and
- (3) **Sexual Misconduct** as defined under the University's Sexual Misconduct Policy, including the Student Sexual Misconduct Policy and the Sexual Harassment Policy.

This mandatory reporting obligation is triggered when an employee:

- (1) witnesses or receives information regarding an incident;
- (2) in the course and scope of employment that;
- (3) the employee reasonably believes constitutes Sexual Misconduct; and is
- (4) committed by or against a student or an employee of the university.

In order to satisfy the requirements of the law and this Policy, the report **must** include all information concerning the incident known to the employee which is relevant to an investigation under the University's Sexual Misconduct Policy, including whether the subject of the report has expressed a desire for an institutional response to the incident or made a request for confidentiality in reporting the incident.

Under Texas law, failure to properly report an incident will result in termination of employment in accordance with the University's disciplinary procedures, and may result in criminal prosecution.

While the consequences for non-compliance are severe, the law does provide some important caveats, exceptions, and protections:

- An employee has **no** obligation to report sexual misconduct that the employee themselves was a victim of.
- The statutorily-mandated reporting requirement **does not apply to students**, so although the University continues to require certain student-workers, such as Resident Assistants, to report incidents of sexual misconduct, they would not be subject to criminal prosecution if they fail to do so.
- Employees who learn about reportable incidents at a "public awareness event" sponsored by the University or by a student organization affiliated with the University are not required to report those incidents (e.g., "Take Back the Night").
- Specifically designated "Confidential Employees," such as the University Chaplain and individuals employed in the University's Health and Counseling Center, are permitted to maintain the confidentiality of the alleged student victim but must still report the nature of the incident.

What this means:

When a faculty or staff member becomes aware of Sexual Misconduct during the course of their work with the University, they are required to report it to the Title IX Coordinator. The Title IX Coordinator will review each report and determine appropriate action. Even "Confidential Employees" such as the Chaplain, licensed counselors or health care providers must report, but only the type of incident and no other identifying information.

Frequently Asked Questions

Q: Does the mandatory reporting obligation mean a faculty or staff member must report Sexual Misconduct they learn about in academic submissions or advising appointments?

A: Yes. Disclosures made in the context of academic advising or individual appointments are not considered confidential and must be reported. The reporting obligation applies to written submissions by students.

Q: Does the mandatory reporting obligation mean a faculty or staff member must report Sexual Misconduct involving other employees at the University?

A: Yes. Texas law requires University employees to report all incidents of Sexual Misconduct involving students and employees that they learn about in the course and scope of their employment.

Q: Are faculty and staff responsible for investigating incidents of Sexual Misconduct?

A: No. The University is responsible for investigating and resolving reports of Sexual Misconduct.

Q: What should a faculty or staff member do if a student or employee begins to talk about an incident of Sexual Misconduct?

A: Interrupt the person and inform them they are not a confidential resource and that they are required to report all incidents of Sexual Misconduct to the Title IX Coordinator.

Q: What should a faculty or staff member say if the student or employee making the disclosure asks to talk with a confidential resource?

A: If the person is a student, refer them to the University Chaplain or to the Health and Counseling Center and let them know about the Resources and Reporting Options "Yellow Book," available at [hotlink]. If the person is a faculty or staff member, refer them to the Faculty and Staff Sexual Misconduct Resource and Reporting Options Book, available at [hotlink].

Q: What should a faculty or staff member do if the person decides to discuss an incident of Sexual Misconduct with them?

A: Listen. Take notes, if possible. After the person has shared the incident, direct the person to the Title IX Coordinator for support services and resources. As soon as practicable after the person has concluded discussing the incident, report the incident to the Title IX Coordinator by phone at 512-863-1111 or by email at titleixcoordinator@southwestern.edu.