



INTERIM University Policy 340: Required Reporting of Sexual Misconduct

Covered Individuals: All Employees

Responsible Executive: Provost

Policy Custodian: Executive Director of the Office of Equity

Last Revised: 2021/1/22

340.1 PURPOSE AND SCOPE

Utah State University is committed to providing a learning and working environment free from Sexual Misconduct. To ensure that incidents of Sexual Misconduct are appropriately addressed, the University expects all employees to appropriately react to disclosures of Sexual Misconduct. This policy sets forth the specific duties and responsibilities of University employees designated as Reporting Employees, Designated Confidential Resources, and Resource Connection Employees. Questions regarding employee reporting obligations under this policy can be directed to the Title IX Coordinator in the Office of Equity.

340.2 POLICY

2.1 Reporting Employee

To ensure that the University can provide persons who have experienced Sexual Misconduct with Supportive Measures, resources, reporting options, and information about filing a Formal Complaint, certain University employees are designated as Reporting Employees. Reporting Employees include, but are not limited to, those employees who have the authority to institute corrective measures concerning allegations of Sexual Misconduct. For a list of employees the University has identified as Reporting Employees by title, see [Reporting Employees list](#). For information about what conduct is covered for Reporting Employees see Policies 339, 339A, and 339B.

2.1.1 Reporting Employee Obligations

Those employees identified as Reporting Employees are required to report all information they receive concerning incidents of Sexual Misconduct to the Title IX Coordinator. All Reporting Employees must submit an Incident Report with information about Sexual Misconduct to the Title IX Coordinator within 24 hours of receiving the disclosure. All Reporting Employees must also provide an individual who discloses information related to Sexual Misconduct with information about [support services and reporting options](#). If an individual is in immediate danger, the Reporting Employee must call 911.

Reporting Employee Incident Reports must be submitted using the [online form](#) at equity.usu.edu and must include all the information disclosed to the Reporting Employee, including the following information:

- The Reporting Employee's name;
- The name of the person who experienced the Sexual Misconduct;
- The name of the person who reported the Sexual Misconduct to the Reporting Employee, if different from the person who experienced it;
- The name of the person(s) alleged to have engaged in Sexual Misconduct;
- The name of any witnesses or individuals who have information about the incident(s);

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- The date, time, and location of the alleged incident(s);
 - The nature of the incident(s);
 - All documentation the Reporting Employee has received related to the incident;
 - The date the incident was reported to the Reporting Employee; and,
 - All other relevant information known to the Reporting Employee.

Reporting Employees may not report anonymously. A single Incident Report can be submitted by an individual Reporting Employee or multiple Reporting Employees. A department or unit can collectively report information in one single Incident Report, as long as all Reporting Employees are named on the Incident Report and every Reporting Employee has provided all information known in the Incident Report concerning the Sexual Misconduct. The Office of Equity will document each Incident Report received by the office in its case management system.

The University also evaluates Incident Reports for Clery Act reporting purposes, including whether timely warnings should be issued. See [USU Policy 533](#) and [USU Policy 305](#).

2.1.2 Notice to Party of Reporting Employee Reporting Obligations

Reporting Employees should inform the disclosing party of the Reporting Employee's obligation to report the incident of Sexual Misconduct to the Title IX Coordinator, along with information to assist the disclosing party to connect with the Office of Equity and other support resources. Reporting Employees receiving such a disclosure should not investigate allegations of Sexual Misconduct.

2.1.3 Exceptions to Reporting Employee Reporting Obligations

A Reporting Employee's obligations do not apply to Sexual Misconduct in circumstances where the Reporting Employee is the Claimant. In addition, there is no Reporting Employee reporting obligation when the disclosure of information about Sexual Misconduct is made through or to:

- A spouse, domestic partner, or immediate family member by their spouse, domestic partner, or immediate family member;
- Job applications and interviews;
- Office of Equity resolution meetings;
- Participants in University led focus groups related to Sexual Misconduct;
- Sexual Misconduct prevention trainings provided by designated prevention specialists;
- Privileged requests for legal advice;
- Public awareness events;
- A Pastoral Counselor who is associated with a religious order or denomination, recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor;
- A process advisor serving in that role in an Office of Equity formal investigation or informal resolution process; or
- Work submitted in course assignments and discussions related to course materials.

If the Reporting Employee is unsure whether to report the information to the Title IX Coordinator, they should err on the side of reporting the information.

2.1.4 Consequences of Failing to Report

Reporting Employees who fail to report may be subject to corrective action, up to and including termination of employment, under [USU Policy 311](#) if they are a non-faculty staff member or [USU Policy 407](#) if they are a faculty member.

2.2 Designated Confidential Resources

In order to provide critical support services to campus community members in a confidential setting, the University's professional counselors, non-professional counselors, and advocates are Designated Confidential Resources.

2.2.1 Designated Confidential Resource Obligations

All Designated Confidential Resources must: (1) provide an individual who discloses information related to Sexual Misconduct with information about [support services and reporting options](#); (2) notify the individual that their disclosure to a Confidential Resource will not result in a report to the Title IX Coordinator or result in a University response; and (3) explain that the individual's personally identifiable information will remain confidential.

2.2.2 Professional Counselors

Professional counselors are not permitted to report to the University, including the Title IX Coordinator, any information that an individual shares with them about an alleged incident of Sexual Misconduct, without the individual's permission. Information disclosed to a professional counselor will not result in a formal investigation under Policy 339, 339A, or 339B.

The following are Designated Confidential Resources:

- [Counseling and Psychological Services \(CAPS\)](#) (available in-person on Logan, Brigham City, Salt Lake, and Tooele campuses, as well as remotely throughout the state);
- [Sexual Assault and Anti-Violence Information Office \(SAAVI\)](#) therapy services;
- [Student Health & Wellness Center](#);
- [USU Eastern Student Counseling Office](#);
- [USU Employee Assistance Program](#);
- [USU Marriage and Family Therapy Clinic](#); and,
- [Behavioral Health Clinic](#).

2.3 Non-professional Counselors and Advocates

Non-professional counselors and advocates can provide support and advocacy services without revealing any personally identifiable information to the University. Pursuant to the Clery Act and [USU Policy 533](#), non-professional counselors and advocates are required to provide information about the date and location of reported incidents to the Title IX Coordinator so that the Title IX Coordinator can track patterns and trends in the University community. Information shared with non-professional counselors and advocates will not initiate formal University action but may require a timely warning notification be sent to the campus community. Non-professional counseling and advocacy services available at the University that are Designated Confidential Resources include:

- [Sexual Assault and Anti-Violence Information Office \(SAAVI\)](#) advocates

2.3 Resource Connection Employee

A Resource Connection Employee is an employee who is neither a Reporting Employee nor a Designated Confidential Resource, but whose position is designated in Procedures 340. Most employees are Resource Connection Employees. A list of Resource Connection Employees can be found [here](#).

3.1 Resource Connection Employee Obligations

All Resource Connection Employees must provide an individual who discloses information concerning Sexual Misconduct with information about [support services and reporting options](#). A Resource Connection Employee must: (1) provide an individual who discloses information related to Sexual

Misconduct with information about how to report to the Title IX Coordinator; (2) notify the individual that unless an Incident Report is made to the Title IX Coordinator, there will not be a University response; and (3) ask the individual if they would like to be connected with a Designated Confidential Resource at the University. The Resource Connection Employee is not required to report disclosures of Sexual Misconduct to the Title IX Coordinator while serving in this role.

In the event that a Resource Connection Employee makes a report, they are required to provide advance notice to the individual that provided the disclosure.

2.4 Other Employees

Those employees that are not categorized as a Reporting Employee, Designated Confidential Resource, or Resource Connection Employee do not have reporting obligations or training requirements under this policy.

2.5 Additional Reporting Obligations

Reporting Employees, Designated Confidential Resources, and Resource Connection Employees may have additional reporting obligations under University policy and state law. See, e.g., [USU Policy 533](#).

2.6 Training Requirements

Reporting Employees, Resource Connection Employees, and Designated Confidential Resources are required to complete all training requirements as outlined in Procedure 340. Supervisors must ensure all Reporting Employees, Resource Connection Employees, and Designated Confidential Resource Employees complete the required training.

340.3 RESPONSIBILITIES

3.1 Office of Equity, Executive Director, and Title IX Coordinator

The Office of Equity is responsible for enforcing this policy.

3.2 Supervisors

Supervisors are responsible for ensuring their direct reports are aware of and follow this policy.

3.3 Employees

Employees are responsible for knowing this policy and the associated procedures and meeting the obligations of their role as a Reporting Employee, Designated Confidential Resource, or Resource Connection Employee.

340.4 REFERENCES

- Title VII of the Civil Rights of 1964
- Title IX of the Higher Education Amendments of 1972
- The Clery Act
- Confidential Communications for Institutional Advocacy Services Act, Utah Code 53B-28-201 et seq.

340.5 RELATED USU POLICIES

- [USU Policy 305, Discrimination Complaints](#)
- [USU Policy 339, Sexual Misconduct in Employment or an Education Program or Activity](#)
- [USU Policy 339A, Sexual Misconduct outside Employment or an Education Program or Activity](#)
- [USU Policy 339B, Sexual Misconduct in a Study Abroad Program](#)

340.6 DEFINITIONS

Advocate. An individual who is employed or volunteers for the University, acts under the supervision of SAAVI's director, and has completed at least 40 hours of training in counseling and assisting victims who have experienced Sexual Misconduct.

Campus Security Authority. As defined by [Policy 533: Public Safety, Response, and Reporting](#), a Campus Security Authority is any employee of the University's Public Safety Department; any individual who has responsibility for campus security but who is not an employee of the Public Safety Department, such as an individual who is responsible for monitoring entrance into University property; any individual or organization specified in Policy 533 as those to which students and employees should report criminal offenses; and any official of the University who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. If such an official is a Pastoral Counselor, as defined below, or professional counselor, as outlined in this Policy, the official is not considered a Campus Security Authority when acting as a Pastoral or professional counselor.

Claimant. A person who is alleged to have experienced conduct that could constitute Sexual Misconduct. Referred to as "complainant" in 34 C.F.R. § 106.30 (2020).

Designated Confidential Resources. The University's professional counselors, non-professional counselors, and advocates. They provide critical support services to campus community members in a confidential setting and do not share disclosures of Sexual Misconduct with the Title IX Coordinator or with law enforcement unless they receive express permission to do so from the Claimant.

Employment or Education Program or Activity. Locations, events, or circumstances in the United States in which the University has substantial control over both the Respondent and the context in which the Sexual Misconduct occurs. Employment or Education Program or Activity includes all off-campus buildings owned or controlled by a recognized student organization and includes the University's computer and internet networks and digital platforms.

Formal Complaint. A signed document that indicates the University will proceed with a Formal Investigation of Sexual Misconduct. A Formal Complaint may be signed by the Claimant or by the Title IX Coordinator.

Incident Report. A report of alleged Sexual Misconduct filed online, via email, by phone, by mail, or in-person to the Office of Equity, Title IX Coordinator, or a Reporting Employee.

Pastoral Counselor. A person, who is associated with a religious order or denomination, recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.

Reporting Employee. Any employee designated by this policy. Employees identified as Reporting Employees are required to report all information they receive concerning incidents of Sexual Misconduct to the Title IX Coordinator.

Respondent. An individual who is alleged to have committed Sexual Misconduct.

Resource Connection Employee. An employee who is neither a Reporting Employee nor a Designated Confidential Resource. Sexual Misconduct disclosures made to a Resource Connection Employee will not

automatically result in an Incident Report to the Title IX Coordinator or a further University response. However, a Resource Connection Employee will provide information about [support services and reporting options](#). Most employees are Resource Connection Employees.

Sexual Misconduct. Referred to as “sexual harassment” in 34 C.F.R. § 106.30 (2020). Sexual Misconduct is conduct on the basis of sex including one or more of the following types of conduct:

- Relationship Violence;
- Sexual Harassment;
- Sexual Assault; and
- Sex-based Stalking.

Supervisor. A person who has the power to take tangible employment actions against an employee, *i.e.*, to effect a significant change of employment status, such as to hire, fire, promote, reassign with significantly different responsibilities, or make a decision causing a significant change in benefits.

Supportive Measures. Non-disciplinary, non-punitive individualized services offered as deemed appropriate by the Office of Equity based on the circumstances of the incident and without fee or charge to the Claimant and/or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s Employment or Education Program or Activity without unreasonably burdening the other party and include measures designed to protect the safety of all parties or the University’s educational environment, and/or to deter Sexual Misconduct. Supportive Measures may include but are not limited to counseling, extensions of deadlines or other academic course-related adjustments, work or class schedule changes, campus security or law enforcement escort services, mutual no-contact orders, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Title IX Coordinator. The person designated to coordinate the University’s efforts to implement and monitor compliance with the University’s Sexual Misconduct policies, including Policy 339: Sexual Misconduct in an Employment or Education Program or Activity; Policy 339A: Sexual Misconduct outside an Employment or Education Program or Activity; Policy 339B: Sexual Misconduct in a Study Abroad Program and with federal Title IX law and regulations more generally. As set forth in Policy 339, the Title IX Coordinator is responsible for ensuring the University’s prompt response to Incident Reports of alleged Sexual Misconduct, coordinating effective implementation of Supportive Measures, and informing Claimants of their option to file a Formal Complaint. The Title IX Coordinator works within the Office of Equity.

See Policy 339: Sexual Misconduct in an Employment or Education Program or Activity for a complete list of definitions, including definitions for each form of Sexual Misconduct.

RESOURCES

Notice of Non-Discrimination

- USU is committed to a learning and working environment free from discrimination, including harassment. For USU’s non-discrimination notice, see <https://equity.usu.edu/non-discrimination>.

Procedures

- [USU Procedures 340: Required Reporting of Sexual Misconduct](#)

Contacts

- **Executive Director of the Office of Equity**
Alison Adams-Perlac
alison.adams-perlac@usu.edu
1475 Old Main Hill
Room 161
435-797-1266
- **Title IX Coordinator**
Hilary Renshaw
hilary.renshaw@usu.edu
1475 Old Main Hill
Room 161
435-797-1266