



## Procedures 340: Required Reporting of Sexual Misconduct

### I. Procedures for Identifying Reporting Employees

A. The Office of Equity, working with relevant campus partners, will compile and maintain a Reporting Employees list (with names and job titles).

1. Human Resources will assist with cross-referencing the above list of employee titles that are designated as Reporting Employees with USU's employee job title databases.
2. The USU Department of Public Safety will compile the list of Campus Security Authorities based on Clery Act regulations and will send that list to the Office of Equity.
3. Student Involvement will compile a list of all staff advisors to student organizations and will send that list to the Office of Equity.
4. Other USU departments may be asked to review or contribute information to the final Reporting Employee list, as appropriate.
5. The Office of Equity will review and update the list of Reporting Employees annually.

B. The University has identified the following employee titles as Reporting Employees:

- Academic Titles
  - Provosts, including vice, associate, and assistant provosts, and assistant to the Provost and staff assistant(s);
  - Deans, including associate and assistant deans, and assistant to the dean(s) and staff assistant(s);
  - Department Heads within colleges;
  - Academic advisors;
  - Faculty;
  - Teaching Non-Benefitted Positions;
  - Course instructors;
  - Graduate Teaching Assistants;
  - Graduate Research Assistants; and,
  - Postdoctoral Fellows.
- Administrative Titles
  - All members of the Board of Trustees and the Board Secretary;
  - President, including assistant to the president and staff assistant(s);
  - Vice Presidents, including associate and assistant vice presidents, and staff assistant(s);

- Executive Directors, Directors, and associate and assistant directors;
  - Staff Supervisors of employees, as classified in the Human Resources System;
  - All employees within the Office of Equity, including student employees;
  - All employees within the Office of Human Resources, excluding student employees;
  - All employees within the Office of General Counsel;
  - All employees within the Disability Resources Center, excluding student employees;
  - Team leaders within Facilities;
  - Hearing Panel members, Appeal Panel members, and University-appointed Process Advisors; and,
  - All employees within the Department of Public Safety, including University Police Officers.
- Student Affairs
    - Vice Presidents, including assistant and associate vice presidents;
    - Executive Directors, Directors, and associate and assistant directors;
    - All employees within Student Conduct & Community Standards, excluding student employees;
    - All employees within Student Involvement & Leadership, Student Life, and Fraternity and Sorority Student Life, excluding student employees;
    - Student organization advisors;
    - Campus recreation staff, excluding student employees;
    - All employees within the Utah Conservation Corps, excluding wage hourly employees; and,
    - All employees within Residence Life, including Resident Assistants and other student employees.
- Athletic Titles
    - Athletic Director; including Deputy Athletic Director, executive, associate, or assistant athletic directors;
    - All NCAA and NJCAA intercollegiate coaches, including assistant coaches, and operations coordinators;
    - Team coaches for club sports, including volunteer coaches; and,
    - Athletic trainers and academic mentors and tutors, including student employees.
- Campus Security Authorities, excluding those employees who are Designated Confidential Resources.

For information about Reporting Employee Obligations and Exceptions, please see the [Reporting Employee Policy](#).

## **II. Procedures for Identifying Designated Confidential Resources**

- A. The University designates certain counseling, advocacy, wellness and medical resources on campus as Designated Confidential Resources, so that University students can receive confidential support, as needed. The University designates these resources as such based on the confidential and highly sensitive nature of the services and supports they provide to Students and/or Employees on a day to day basis.
- B. Designated Confidential Resources include:
- [Counseling and Psychological Services \(CAPS\)](#) Office (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 \(SAAVI\)](#);
  - [Mind-Body Bridging Clinic](#); and,
  - [Student Health & Wellness Center](#).

### **III. Procedures for Implementing Supportive Measures**

- A. Reporting Employees who receive a request for an academic accommodation, or any other type of Supportive Measure, in connection with a Sexual Misconduct incident must report the disclosure to the Office of Equity as required by [USU Policy 340: Required Reporting of Sexual Misconduct](#). The Office of Equity will then reach out to the individual requesting the Supportive Measure to discuss that accommodation and other Supportive Measures. Reporting Employees cannot implement accommodations or Supportive Measures without consulting with the Office of Equity.
- B. Designated Confidential Resource Employees who receive a request for an accommodation, or any other type of Supportive Measure, in connection with a Sexual Misconduct incident must inform the individual that accommodations and Supportive Measures can only be obtained through the Office of Equity. The Designated Confidential Resource must also provide the individual with information on how to contact the Office of Equity in order to receive that accommodation or Supportive Measure. Designated Confidential Resource Employees cannot implement accommodations or Supportive Measures without consulting with the Office of Equity.

### **IV. Procedures for Training Reporting Employees**

- A. Reporting Employees are required to complete all training requirements related to Reporting Employee obligations. Reporting Employee trainings will be facilitated by an Office of Equity prevention specialist, or their designee.
1. Reporting Employees are required to complete an annual in-person (or via videoconference, where applicable) training covering their reporting obligations and the University's Title IX policies and procedures, generally. Trainings will be approximately 60-90 minutes.

- i. The training content will differ based on whether the Reporting Employee is a new employee or a returning employee. A survey to measure what was learned and to solicit feedback about the training will be given immediately after the training and an additional survey will be emailed to Reporting Employees approximately 1-2 weeks after they have participated in the training.

## **V. Procedures for Training Designated Confidential Resources**

- A. Designated Confidential Resources are required to complete all training requirements related to Designated Confidential Resources obligations. Designated Confidential Resource trainings will be facilitated by an Office of Equity prevention specialist, or their designee.
  1. Designated Confidential Resources are required to complete an annual in-person (or via videoconference, where applicable) training covering their obligations under the University's Title IX policies and procedures, as well as the substance of the policies and procedures. Trainings will be approximately 60-90 minutes.
    - i. A survey to measure what was learned and to solicit feedback about the training will be given immediately after the training and an additional survey will be emailed to Designated Confidential Resources approximately 1-2 weeks after they have participated in a training.

## **VI. Procedures for Training Non-Designated Employees**

- A. Non-designated Employee trainings will be facilitated either via an online, self-paced course in the University's LMS or in-person (or via videoconference, where applicable) by an Office of Equity prevention specialist, or their designee. Trainings will be approximately 30-60 minutes.
  1. Full-time, benefited new Non-designated Employees are required to complete an in-person training.
  2. The training content will differ based on whether the Non-designated Employee is a new employee or a returning employee.
- B. The following categories of Non-designated Employees are required to complete an annual training covering USU Policy and Procedures 339/339A.
  1. Full-time, benefited employees
  2. Wage hourly employees who are:
    - i. Office or staff assistants, receptionists
    - ii. Peer mentors/advisors/A-Team members
    - iii. Undergraduate teaching fellows

- iv. Undergraduate teaching and research assistants
  - v. Classroom and broadcast facilitators
  - vi. Tutors
3. Wage hourly employees who work in:
- i. Athletics
  - ii. Student Affairs
  - iii. Sorenson Legacy Foundation Center for Clinical Excellence
  - iv. Disability Resource Center
  - v. Financial Aid
  - vi. Human Resources

C. Non-designated Employees who are not listed above are not required to complete the annual training.

- 1. Supervisors of employees who are not listed above can opt their employee(s) into the annual training by contacting the Office of Equity's prevention team.

## **VII. Communication about Compliance**

- A. Reporting Employee and Designated Confidential Resources training compliance details will be coordinated through the University's online Learning Management System (LMS).
- B. Automated emails will be sent to all Reporting Employees and Designated Confidential Resources through the LMS with information about how to RSVP for a training session at the start of the training period. Additional emails will be sent regularly during the training period to Reporting Employees and Designated Confidential Resources who have not RSVP'd for or attended a training session.
- 1. Reporting Employees and Designated Confidential Resources will be expected to RSVP in advance for a training session.
  - 2. Supervisors will receive emails at least twice a semester from the Office of Equity or the University's LMS during the training period about Reporting Employees and Designated Confidential Resources who have and have not completed the training.
    - i. Attendance at the Reporting Employee and Designated Confidential Resources training sessions will be tracked and recorded by the Office of Equity through a combination of methods.
    - ii. Training attendance records may also be added to other employee record management systems.
  - 3. Reporting Employees and Designated Confidential Resources are responsible for reviewing and acting upon communication from the Office of Equity and/or their supervisor about the required training.
  - 4. Reporting Employees and Designated Confidential Resources are responsible for communicating with their supervisor and the Office of

Equity if they are unable to participate in the required training by the designated deadline and at the designated frequency, and explaining why.

## VIII. Supervisor Responsibilities

- A. Supervisors, in collaboration with the Office of Equity and Human Resources, must ensure all Reporting Employees and Designated Confidential Resources complete required training.
1. Supervisors are responsible for reviewing and understanding USU [Policy 340](#), knowing which of their employees is a Reporting Employee or Designated Confidential Resource and asking for clarification from the Office of Equity if they are uncertain who is classified as which.
  2. Supervisors are responsible for ensuring that Reporting Employees and Designated Confidential Resources are aware of, understand, and have the tools and time within their regular workday necessary to complete the required training.
  3. Supervisors are responsible for communicating with Reporting Employees and Designated Confidential Resources who have not completed the required training by the designated deadline and at the designated frequency.
  4. Supervisors will receive regular emails from the Office of Equity and Human Resources until their employees comply with this requirement.
- B. Reporting Employees, Designated Confidential Resources, and supervisors who fail to complete the training requirements may be subject to disciplinary action under [USU Policy 311: Setting Expectations and Managing Performance](#), if they are a non-faculty staff member, or [USU Policy 407: Academic Due Process – Sanctions and Hearing Procedures](#), if they are a faculty member.

## IX. Definitions

**Advocate.** An individual who is employed by or volunteers for the University, acts under the supervision of the Sexual Assault and Anti-Violence Information Office's (SAAVI) director, and has completed at least 40 hours of training in counseling and assisting victims who have experienced Sexual Misconduct.

**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 law enforcement unless they receive express written permission to do so from the Claimant.

**Disclosing Party.** An individual who provides information about Sexual Misconduct to a University employee.

**Employee.** A full-time or part-time University faculty, staff, professional research staff, or post-doctoral fellow. For purposes of this policy, a Student Employee may be designated as both a Student and an Employee.

**Employment or Education Program or Activity.** All operations of the University in the United States including buildings, locations, events, and University computers, internet networks, and remote learning platforms; off-campus settings in which the University has substantial control over both the Respondent and the context in which the Sexual Misconduct occurs, including University computers and internet networks and digital platforms; off-campus buildings owned or controlled by a student organization officially recognized by the University.

**Formal Complaint.** A signed document that indicates the University will proceed with a Formal Investigation of Sexual Misconduct or an Alternative Resolution. A Formal Complaint may be signed by the Claimant or, for University-driven Formal Investigations, by the Title IX Coordinator. The Formal Complaint signed by the Claimant must: (1) state the Respondent's name (if known); (2) state Sexual Misconduct that would be covered by this policy; (3) request an Alternative Resolution or Formal Investigation; and (4) cannot be anonymous. In the event that the Title IX Coordinator signs the Formal Complaint, the University is not acting as the Claimant, does not have the rights of a Claimant, and will not otherwise be treated as a party to the investigation.

**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.

**Non-designated Employee.** An employee who is not categorized as a Reporting Employee or Designated Confidential Resource.

**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.

**Relationship Violence.** Includes Dating Violence and Domestic Violence.

- **Dating Violence.** Dating violence includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Claimant. The existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship, (b) the nature of the relationship, and (c) the frequency of interaction between the persons involved in the relationship.

- **Domestic Violence.** Domestic Violence includes felony or misdemeanor crimes of violence committed against the Claimant by a current or former spouse or intimate partner of the Claimant, by a person with whom the Claimant shares a child in common, by a person who is cohabitating with or has cohabitated with the Claimant as a spouse or intimate partner, by a person similarly situated to a spouse of the Claimant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth Claimant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. A criminal charge or conviction is not a predicate for an allegation of Domestic Violence to be brought under the Sexual Misconduct Policy.

**Reporting Employee.** An employee who is required to report all information they receive about incidents of Sexual Misconduct to the Title IX Coordinator. See the Reporting Employee Policy.

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

**Sex-based Stalking.** Engaging in a course of conduct directed at a specific person or persons based on sex, that would cause a reasonable person to fear for their safety or for the safety of others or to suffer substantial emotional distress. Stalking may occur in person, by telephone, mail, electronic communication, social media, or any other action, device, or method.

A course of conduct is two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through a third party, follows, monitors, observes, surveils, threatens, intimidates, harasses, or communicates to or about a person, or interferes with a person's property by telephone, mail, electronic communication, social media, or any other action, method, device, or means.

**Sexual Assault.** Includes any sexual act or attempted sexual act, including Rape, Sodomy, Sexual Assault with An Object, or Fondling, directed against another person without their Consent. This includes instances where the person is incapable of giving Consent because of their age or Incapacitation. Sexual Assault also includes unlawful sexual acts, such as Incest and Statutory Rape.

- **Rape.** Sexual intercourse with another person without their Consent.
- **Sodomy.** Oral or anal sexual intercourse with another person without their Consent.
- **Sexual Assault with An Object.** The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person without their Consent.
- **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification without their Consent.



- **Incest.** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law (e.g., a sibling or parent/child relationship).
- **Statutory Rape.** Sexual intercourse with a person who is under Utah's statutory age of Consent.

**Sexual Exploitation.** Taking non-consensual sexual advantage of another for one's own advantage or benefit, or to the benefit or advantage of anyone other than the Claimant. Examples include, but are not limited to:

- observing, recording, or photographing nudity or sexual activity of one or more persons without their Consent in a location where there is a reasonable expectation of privacy;
- allowing another to observe, record, or photograph nudity or sexual activity of one or more persons without their Consent where there is a reasonable expectation of privacy; or
- distributing recordings, photographs, or other images of the nudity or sexual activity of one or more persons without their Consent.

**Sexual Harassment.** Includes Hostile Environment and Quid Pro Quo.

- **Hostile Environment.** Unwelcome sex-based conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an Employment or Education Program or Activity.
- **Quid Pro Quo.** An Employee's conditioning the provision of a University aid, benefit, or service on a person's participation in unwelcome sexual conduct.

**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:

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

**Student.** A person who is currently registered or enrolled at the University for credit or non-credit-bearing course work.

**Supervisor.** A person who has the power to take tangible employment actions against an employee, *i.e.*, to affect 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. Regarding a person who supervises a student, "Supervisor" means a person who assigns job duties, makes decisions about how the student spends their time, or oversees the student's day-to-day tasks.

**Supportive Measures.** Short-term, 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, supplementary education about Sexual Misconduct. 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 [USU Policy 339](#): Title IX Sexual Misconduct in an Employment or Education Program or Activity, [USU Policy 339A](#): Non-Title IX Sexual Misconduct, and with federal Title IX law and regulations more generally. As set forth in the Sexual Misconduct policies, 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, informing Claimants of their option to file a Formal Complaint, and informing the parties of their rights and obligations under the Grievance Process. The Title IX Coordinator works in the Office of Equity.

## RESOURCES

### **Non-Discrimination Statement**

In its programs and activities, including in admissions and employment, Utah State University does not discriminate or tolerate [discrimination](#), including harassment, based on race, color, religion, sex, national origin, age, genetic information, sexual orientation, gender identity or expression, disability, status as a protected veteran, or any other status protected by University policy, Title IX, or any other federal, state, or local law.

Utah State University is an equal opportunity employer and does not discriminate or tolerate discrimination including harassment in employment including in hiring, promotion, transfer, or termination based on race, color, religion, sex, national origin, age, genetic information, sexual orientation, gender identity or expression, disability, status as a protected veteran, or any other status protected by university policy or any other federal, state, or local law.

Utah State University does not discriminate in its housing offerings and will treat all persons fairly and equally without regard to race, color, religion, sex, familial status, disability, national origin, source of income, sexual orientation, or gender identity. Additionally, the University endeavors to provide reasonable accommodations when necessary and to ensure equal access to qualified persons with disabilities.

The following individuals have been designated to handle inquiries regarding the application of Title IX and its implementing regulations and/or USU's non-discrimination policies:

**Executive Director of the Office of Equity/Interim Title IX Coordinator**

Matthew Pinner

[matthew.pinner@usu.edu](mailto:matthew.pinner@usu.edu)

Distance Education Room 401

Logan, UT 84322

435-797-1266

For further information regarding non-discrimination, please visit <https://equity.usu.edu/>, or contact:

U.S. Department of Education

Office of Assistant Secretary for Civil Rights

800-421-3481

[OCR@ed.gov](mailto:OCR@ed.gov)

U.S. Department of Education

Office for Civil Rights

Denver Regional Office

303-844-5695

[OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)