



Interim University Policy 339A: Non-Title IX Sexual Misconduct

Covered Individuals: All Employees and Students

Responsible Executive: President

Policy Custodian: Executive Director of the Office of Equity

Last Revised: 2023/02/10

339A.1 PURPOSE AND SCOPE

The University is committed to maintaining a living, learning, and working environment free from Sexual Misconduct, defined in this policy as conduct on the basis of sex including Relationship Violence, Sexual Harassment, Sexual Assault, Sexual Exploitation, and Sex-based Stalking. This policy addresses Sexual Misconduct that occurs outside of a university program or activity. This policy also addresses Sexual Misconduct that occurs within an Employment or Education Program or Activity outside of the United States.

Sexual Misconduct. Sexual Misconduct is conduct on the basis of sex including one or more of the following types of conduct:

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

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 this policy.

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 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.

This policy explains the University's prohibition of Sexual Misconduct and outlines the reporting options that are available, including confidential reporting options and reporting options that result in a response from the University.

339A.2 POLICY

The University prohibits Employees and Students from engaging in Relationship Violence, Sex-based Stalking, Sexual Assault, Sexual Exploitation, and Sexual Harassment (collectively referred to as "Sexual Misconduct"). The University will take prompt action under this policy to address Sexual Harassment, Relationship Violence, Sex-based Stalking, and Sexual Assault that occurs outside of an Employment or Education Program or Activity and Sexual Exploitation that occurs within and outside an Employment or Education Program or Activity when the Sexual Misconduct likely has continuing adverse effects on Students or Employees in an Employment or Education Program or Activity or creates a Hostile Environment in any University Employment or Education Program or Activity and the University is aware that the Sexual Misconduct has occurred.

A Student who engages in Sexual Misconduct may be subject to Sanctions ranging from a warning up to expulsion with a permanent notation on their transcript. An Employee who engages in Sexual Misconduct may be subject to Sanctions ranging from a warning up to termination of employment.

Sex discrimination that does not meet the definitions of Sexual Misconduct is governed by Policy [305](#): Discrimination Based on Protected Characteristics. Title IX Sexual Misconduct in an Employment or Education Program or Activity is governed by Policy [339](#). Retaliation is governed by Policy [305](#).

This policy is not intended to confer or create any contractual rights.

2.1 Title IX Coordinator

The University has designated a Title IX Coordinator in its Office of Equity and has authorized that individual to coordinate the University's efforts to implement and monitor compliance with this policy. As set forth in this policy, the Title IX Coordinator is responsible for ensuring that the University promptly responds to Incident Reports of alleged Sexual Misconduct, coordinates effective implementation of Supportive

Measures, and informs Claimants of their option to file a Formal Complaint.

The University's Title IX Coordinator is:

Matt Pinner
Interim Title IX Coordinator
titleix@usu.edu
435-797-1266
Distance Education Room 401
Logan, Utah 84322-1475

The Title IX Coordinator and the Office of Equity Executive Director may appoint a staff member from the Office of Equity as their designee for purposes of this policy and Procedures 305 and 339A: Discrimination Based on Protected Characteristics and Non-Title IX Sexual Misconduct ("Prohibited Conduct Procedures").

2.2 Jurisdiction

This policy applies to Sexual Harassment, Relationship Violence, Sex-based Stalking, and Sexual Assault committed outside an Employment or Education Program or Activity. It also applies to Sexual Exploitation that occurs within and outside an Employment or Education Program or Activity by an Employee or Student. The Sexual Misconduct must also be likely to have continuing adverse effects on Students, Employees, or third parties in an Employment or Education Program or Activity. This policy also applies to Sexual Misconduct occurring in an Employment or Education Program or Activity occurring outside the United States.

2.3 Reporting Options That Will Result in an Incident Report to the Title IX Coordinator

The University encourages any person who has experienced or has knowledge of alleged Sexual Misconduct to report the incident using one of the following methods so that the University can provide parties with Supportive Measures (regardless of whether a Formal Complaint is filed) and resources they need, including information on filing a Formal Complaint and an explanation of all available options for resolution.

2.3.1 Reporting to the Title IX Coordinator/Office of Equity

Any person may file an Incident Report with the Title IX Coordinator or Office of Equity at any time, including during non-business hours, by filing an Incident Report online at equity.usu.edu/report, emailing titleix@usu.edu, calling 435-797-1265, visiting the Office of Equity in Distance Education Room 404, or via mail at Office of Equity 5100 Old Main Hill, UMC 1475, Logan, Utah 84322-5100. Persons who call after hours may leave a message on the Office's confidential voicemail that will be retrieved within the next business day.

2.3.2 Reporting to Designated University Employees (Reporting Employees)

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. See Policy 340: Required Reporting of Sexual Misconduct ("Reporting Employee Policy"). For a list of Employees by position or title that the University has identified as Reporting Employees, see Procedures 340: Required Reporting of Sexual Misconduct ("Reporting Employee Procedures"). A Reporting Employee's obligations do not apply in circumstances in which the Reporting Employee is the Claimant having experienced Sexual Misconduct. For more information about exceptions to Reporting Employee reporting obligations, see Reporting Employee Policy.

Any person may report Sexual Misconduct to a Reporting Employee via email or other writing, over the phone, or in-person. To ensure that the University can provide Supportive Measures, resources, and information about the process for filing a Formal Complaint, Reporting Employees cannot honor requests for confidentiality and are required to report disclosures of alleged Sexual Misconduct to the Title IX Coordinator within 24 hours of receiving the information by completing an Incident Report online at equity.usu.edu/report. An Incident Report filed by a Reporting Employee must include all information the individual has disclosed to the Reporting Employee. The Reporting Employee must also attach all

documentation that they have received about the incident to the Incident Report. All Reporting Employees must also provide an individual who discloses information related to Sexual Misconduct with information about [support services and additional reporting options](#). For more information about the obligations of Reporting Employees, see Reporting Employee Policy.

2.3.3 Reporting to USU Police

A person experiencing an emergency or who is in immediate danger should call 911. Any person may report Sexual Misconduct to USU Police or another law enforcement entity for investigation and potential criminal prosecution. Law enforcement can also assist with preserving evidence, connecting a Claimant with appropriate medical services, and enforcing a protective order or stalking injunction entered by a court.

USU Police at every campus are designated Reporting Employees and must notify the Title IX Coordinator of all incidents of Sexual Misconduct reported to them. USU Police may respond to calls about incidents that occur on any of USU's campuses (see below list for contact information). For information about reporting to off-campus law enforcement, see Section 2.4.2. of this Policy ("Reporting to Outside Law Enforcement").

Logan

Incidents of Sexual Misconduct that occur on the Logan campus should be reported to USU Police Logan. A person may:

- Call 435-797-1939
- Visit the Public Safety Building at 880 East 1250 North, Logan

Price

Incidents of Sexual Misconduct that occur on the USU Eastern campus should be reported to USU Police Eastern. A person may:

- Call 435-637-0890
- Visit the Purchasing/Police Building on the USU Eastern campus at PUR 101B

Blanding

Incidents of Sexual Misconduct that occur on the USU Blanding campus should be reported to USU Police Blanding. A person may:

- Call 435-678-2334
- Visit Campus Security at 576 West 200 South, Blanding

For more information on how to report to law enforcement and how the University coordinates with police when criminal proceedings run concurrent with an investigation under this policy, see Prohibited Conduct Procedures.

2.3.4 Anonymous Reporting

With the exception of a Reporting Employee who must include their name and, if known, the names of persons involved in reported instances of Sexual Misconduct when filing an Incident Report as outlined in section 2.3.2, any person may file an Incident Report anonymously through the University's online reporting system at equity.usu.edu/report. If the Incident Report does not contain enough information about the alleged Sexual Misconduct and/or the persons involved, the University's ability to address the allegations may be limited. However, the University has discretion to pursue a University-driven Formal Investigation based on an anonymous Incident Report in certain circumstances when the Incident Report contains sufficient details about an incident of Sexual Misconduct and the identities of the person(s) involved, and if pursuing it is in the interest of campus or community safety. Examples of when the University may proceed with a University-driven Formal Investigation include, but are not limited to, cases where the Incident Report includes an indicia of threats, serial predation, violence, or weapons. See Prohibited Conduct Procedures.

2.4 Reporting Options That Will Not Automatically Result in an Incident Report to the Title IX Coordinator

2.4.1 Reporting to Designated Confidential Resources

To provide critical support services to campus community members in a confidential setting, the University's

professional counselors, non-professional counselors, advocates, and medical staff at the offices and programs listed below are Designated Confidential Resources. These individuals are required to keep all information they receive about Sexual Misconduct allegations confidential, meaning that they cannot share that information with the Title IX Coordinator or law enforcement without the express permission of the individual who reported it to them. As such, reports made to Designated Confidential Resources alone will not result in an investigation or further University action beyond the provision of support services, medical attention, or additional relevant resources. Designated Confidential Resources must provide an individual who discloses information about Sexual Misconduct with information about [support services and reporting options](#). For more information about the obligations of Designated Confidential Resources, see Reporting Employee Policy Section 2.2.

All persons working in the following offices or programs, whether as Employees or volunteers, 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, including [SAAVI](#) advocates;
- [Mind-Body Bridging Clinic](#); and
- [Student Health & Wellness Center](#).

Pursuant to the Clery Act and USU Policy [533](#), non-professional counselors and advocates are required to provide anonymous information that occurred on Clery Geography, including incident date, time, and location, to University police, who then file an Incident Report as Reporting Employees to the Title IX Coordinator so that the Title IX Coordinator can track patterns and trends in the University community.

2.4.2 Reporting to Outside Law Enforcement

If a Sexual Misconduct incident occurs off campus, an outside law enforcement agency may respond (see below list for contact information). Information provided directly to an outside law enforcement agency (i.e., any law enforcement entity other than the USU Police) may not be reported to the University. Therefore, these reports are not considered reports made to the University and the University may not have knowledge of information provided in these reports.

Logan

Incidents of Sexual Misconduct that occur off campus but within the Logan community should be reported to Logan City Police. A person may:

- Call 435-716-9300, or 911 in an emergency
- Visit 62 West 300 North, Logan

Price

Incidents of Sexual Misconduct that occur off campus but within the Price community should be reported to Price City Police. A person may:

- Call 435-636-3190
- Visit 910 North 700 East, Price, Utah

Blanding

Incidents of Sexual Misconduct that occur off campus but within the Blanding community should be reported to Blanding City Police. A person may:

- Call 435-678-2334
- Visit 167 East 500 North, Blanding, Utah

Individuals interested in pursuing resources or accessing information about the process for filing a Formal Complaint with the University are encouraged to report to the Office of Equity. Even when an incident occurs off campus, the University may assess its jurisdiction under section 2.2. above and proceed

accordingly.

2.5 Reporting Timeframes

Except for Reporting Employees, who must report Sexual Misconduct to the Title IX Coordinator within 24 hours, there is no time limit on reporting Sexual Misconduct to the Title IX Coordinator, the Office of Equity, or a Reporting Employee. As long as the University has jurisdiction, it will address an Incident Report of alleged Sexual Misconduct regardless of when it was filed. However, the University encourages Claimants and other individuals with information about Sexual Misconduct to report as soon as possible because time, memory, and the enrollment or employment of parties and Witnesses are critical factors in evidence collection and preservation. Delayed reporting may impact the University's ability to investigate or otherwise offer the full range of responses to allegations of Sexual Misconduct.

2.6 Supportive Measures

The University can provide Supportive Measures to a Claimant who has experienced Sexual Misconduct while at the University regardless of whether they choose to participate in the Grievance Process. During the pendency of the Grievance Process, the University may also provide Supportive Measures to a Respondent. See Sexual Misconduct Procedures.

2.7 Grievance Process

The University will conduct a fair and impartial Grievance Process, free of Actual Conflicts of Interest, Demonstrated Bias, and discrimination. The Grievance Process may include a Claimant- or University-driven Formal Investigation or an Alternative Resolution. The Grievance Process is governed by the Non-Title IX Sexual Misconduct Procedures.

2.8 Retaliation

Students and Employees, regardless of whether they are parties or Witnesses, are prohibited from engaging in Retaliation.

2.9 Training

In addition to annual Sexual Misconduct training required by the University, the Office of Equity, at its discretion, has authority to require Students, Employees, and third parties over whom the University has control to complete Sexual Misconduct training. This includes requiring a Respondent to complete supplementary education when they are the subject of an Incident Report, regardless of whether a Determination is reached as to whether the Respondent violated this policy.

The Office of Equity will work with the Registrar's Office to ensure that registration holds are placed on the accounts of Students who do not complete the required training or supplementary education by the deadline. Employees who fail to complete training or supplementary education required by the Office of Equity may be subject to discipline under [Policy 311: Setting Expectations and Managing Performance](#) or [Policy 407: Academic Due Process: Sanctions and Hearing Procedures](#).

2.10 Prevention and Education for Employees and Students

The University employs a multi-pronged approach to provide comprehensive ongoing education to Students and Employees about Sexual Misconduct, Consent, the University's processes for responding to Sexual Misconduct, bystander intervention, risk reduction, the availability of University and community resources for those who experience Sexual Misconduct, and other related topics.

2.11 Amnesty for Drugs and Alcohol

To remove barriers that prevent Students from seeking necessary medical attention for themselves or others or from reporting Sexual Misconduct, USU offers [amnesty](#) for drug and alcohol policy violations of the Student Code when a student reports an incident of Sexual Misconduct, whether they experienced or witnessed it. Those Students who cooperate in a Formal Investigation of Sexual Misconduct are also

granted amnesty, though they may be encouraged to participate in health education interventions. For more information, see Student Code Art. II-4: Amnesty for Seeking Medical Attention and Reporting Sexual Misconduct.

2.12 Conflict of Laws

This policy and the Prohibited Conduct Procedures shall not be interpreted to infringe on a party's First Amendment rights or on an Employee's rights under Title VII of the Civil Rights Act of 1964.

If there is a conflict between the laws of Utah and Title IX, Title IX preempts and this policy shall be interpreted to comport with Title IX.

2.13 University Authority to Address Respondent Conduct Under Other Applicable Policies

This policy and the Sexual Misconduct Procedures shall not be interpreted to prevent the University from addressing a Respondent's conduct under other applicable University policies and/or procedures.

339A.3 RESPONSIBILITIES

3.1 Office of Equity

The Office of Equity is responsible for responding to and investigating Sexual Misconduct Incident Reports and the University's compliance with this policy and related state and federal laws, rules, and regulations. The Office of Equity also may conduct compliance reviews related to Sexual Misconduct in the University's colleges, departments, and programs. More information about the Office of Equity is available at equity.usu.edu.

339A.4 REFERENCES

- Titles VI and VII of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Campus Sexual Violence Elimination Act (SAVE) – reauthorization of Violence Against Women Act of 2013
- Utah Antidiscrimination Act and other applicable laws

339A.5 RELATED USU POLICIES

- [USU Policy 305: Discrimination Based on Protected Characteristics](#)
- [USU Policy 339: Title IX Sexual Misconduct in an Employment or Education Program or Activity](#)
- [USU Policy 340: Required Reporting of Sexual Misconduct](#)

339A.6 DEFINITIONS

Actual Conflict of Interest. Exists when a non-party individual with a role in the Grievance Process is in a position to gain a personal or self-serving benefit from an action or decision made in their role under this policy, or where a person is otherwise unable to participate with objectivity because of personal or professional relationships with other individuals involved in the process or associated with those involved. That an individual with a role in the process works for the University alone is not enough, without more, to establish an Actual Conflict of Interest.

Alternative Resolution. A voluntary process in which parties agree to resolve a Formal Complaint without completing an investigation, or at any time prior to the conclusion of the investigation and hearing process. An Alternative Resolution agreement may be facilitated through arbitration, mediation, restorative justice, or another appropriate method that is agreed upon by the parties and the Title IX Coordinator. Such an agreement may not include Sanctions or other disciplinary measures unless the Respondent agrees to such Sanctions or disciplinary measures.

Appeal. A request by a party to have a Determination or Sanction overturned or modified.

Demonstrated Bias. Unfair prejudice in favor of or against one group compared with another, including bias against a particular class of parties, (e.g., Respondents in the Grievance Process). Individuals with roles in the Grievance Process are prohibited from considering a party's status as a Claimant or Respondent as a negative factor during consideration of the Formal Complaint. That an individual with a role in the process works for the University alone is not enough, without more, to establish Demonstrated Bias.

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).

Coercion. May consist of intimidation, threats, or other severe conduct that causes a reasonable person to fear significant consequences if they refuse to engage in sexual contact.

Consent. Consent is an affirmative agreement to do the same thing at the same time in the same way. An affirmative agreement includes an informed, freely and actively given, mutually understandable exchange of unmistakable words or actions, which indicate an affirmative willingness to participate in mutually agreed upon sexual activity. Consent can be withdrawn or modified at any time, as long as such withdrawal or modification is clearly communicated.

Consent cannot be assumed based on silence, the absence of "no" or "stop," the existence of a prior or current relationship, or prior sexual activity. There is no Consent when there is Force, Coercion, or Incapacitation.

Examples of Consensual behavior may include, but are not limited to:

- Verbal statements of "yes" or "okay"
- Head nodding
- Asking someone to engage in the sexual activity

Examples of non-Consensual behavior may include, but are not limited to:

- Verbal statements of "no" or "I don't want to"
- Verbal statements of "I don't know" or "maybe"
- Pushing someone away
- Resisting contact
- Shrugging or other uncertain body language
- Not actively participating in the sexual activity
- No response or silence
- Disengaging from previous Consensual behavior
- Force, Coercion, or Incapacitation

Corrective Action. Employment-related action (including imposition of Sanctions) undertaken to correct or modify unacceptable job performance or behavior to acceptable standards. Corrective Action measures authorized to be imposed on Employees include an oral reprimand, written warning, Administrative Leave with or without pay, and dismissal from employment.

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.

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.

Force. Includes the use of physical force or threats of force that affect a person's ability to give Consent to sexual contact.

Formal Complaint. A signed document that indicates the University will proceed with a Formal Investigation of Prohibited Conduct or an Alternative Resolution. A Formal Complaint may be signed by the Claimant or, for University-driven Formal Investigations, by the Title IX Coordinator or Executive Director. The Formal Complaint signed by the Claimant must: (1) state the Respondent's name (if known); (2) state Prohibited Conduct that would be covered by the related 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.

Formal Investigation. The evidence-gathering process that begins with the filing of the Formal Complaint by a Claimant or Title IX Coordinator or Executive Director and ends when the Appeal process is complete. This process includes interviewing parties and Witnesses, and gathering other Relevant evidence, exculpatory and inculpatory. When there is a live hearing, a Hearing Officer/Panel determines, by a Preponderance of the Evidence gathered during the Formal Investigation, whether there is a policy violation. The parties can Appeal a finding and decision based on evidence gathered during the Formal Investigation under limited circumstances.

Grievance Process. The process undertaken by the Office of Equity from the filing of a Formal Complaint through to the resolution of any Appeals. The Grievance Process may include a Claimant- or University-driven Formal Investigation and Hearing, or an Alternative Resolution.

Incapacitation. A state in which a person lacks the ability, temporarily or permanently, to give Consent to sexual activity including because of a disability, drug or alcohol consumption (whether voluntary or involuntary), or because the person is unconscious, asleep, immobilized, or otherwise unaware that the sexual activity is occurring. A person is not necessarily incapacitated solely as a result of drinking or using drugs; the level of impairment must be significant enough to render the person unable to give Consent.

It is not an excuse that the party initiating sexual contact was intoxicated and therefore did not realize the other person's incapacity. In evaluating cases involving alleged Incapacitation, the University considers whether the person initiating the sexual conduct knew or should have known the other person was Incapacitated.

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.

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.

Retaliation. Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege under this policy, or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in a Formal Investigation, Alternative Resolution, or hearing under this policy.

Sanction. Disciplinary or punitive action taken against a Respondent after they are found by the Hearing Officer/Panel to have violated this policy.

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 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 types of conduct:

- Relationship Violence;

- Sex-based Stalking;
- Sexual Assault;
- Sexual Exploitation; and
- Sexual Harassment.

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

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 Policy 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.

University-driven Formal Investigation. A Formal Investigation of allegations of Sexual Misconduct undertaken by the University when there is no participating Claimant. While the Title IX Coordinator (for Policy 339/339A) or Executive Director (for Policy 305) signs a Formal Complaint to initiate a University-driven Formal Investigation, neither the Title IX Coordinator, Executive Director, nor the University serves as a Claimant in such circumstances.

Witness. An individual who has relevant information about Sexual Misconduct allegations.

RESOURCES

Notice of Non-Discrimination

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

Distance Education Room 401

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

U.S. Department of Education

Denver Regional Office

303-844-5695

OCR.Denver@ed.gov