

“Responsible Employee” (mandatory reporter) Resource Guide

RESPONDING TO HARASSMENT, DISCRIMINATION AND SEXUAL MISCONDUCT CONCERNS

DID YOU KNOW?

- ▶ All employees, including student employees are mandatory reporters, i.e. “responsible employees” and are therefore **required** to promptly report allegations of sexual harassment, gender-based harassment, sexual assault, dating violence, domestic violence, sexual exploitation, stalking, and other sexual misconduct to the University Title IX Coordinator and Deputy Title IX Coordinator.
- ▶ Faculty-Student privilege and Supervisor-Employee privilege does **not** exist. You cannot keep what you know “confidential” unless you are a designated confidential employee.
- ▶ Confidential employees include Health Services, CAPs, RVSP advocate and UTAPD Crime Victim Services, as long as the information is received during the course and scope of their role as a confidential employee.
 - ▶ The provider may report to Title IX if the alleged victim has waived in writing.
 - ▶ The provider must report to Title IX the type of incident only.





IDENTIFYING WHEN TO REPORT A CONCERN

CONCERNS INVOLVING REAL OR PERCEIVED SEXUAL HARASSMENT, GENDER-BASED HARASSMENT, SEXUAL ASSAULT/VIOLENCE, DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL EXPLOITATION, STALKING, AND RETALIATION **MUST BE** REPORTED PROMPTLY

EXAMPLES

- ▶ A student complains that other students in his/her/their class often make “sexist and derogatory” comments about women and people of other races.
- ▶ You hear rumors that a well-respected senior administrator regularly makes sarcastic and disparaging comments about employees who request disability accommodations.
- ▶ A faculty member tells you a former student is stalking him/her/they and leaving threatening texts and voice messages.
- ▶ You meet with an employee about why he/she/they has missed work recently. The employee tells you he/she/they is missing work to avoid a co-worker who had sex with him/her/they blacking-out at a party.



EXAMPLES

- ▶ A student is concerned because a faculty member will not allow her to make up an exam after she was on bed rest for a pregnancy related condition.
- ▶ A student-athlete tells you “in confidence” that he believes he was sexually assaulted at a competition at another university.
- ▶ You ask about a staff member’s bruised eye and he informs you that his partner struck him.
- ▶ A student tells you that one of her classmates felt coerced into having sex with her Graduate Teaching Assistant, but does not want to “make any waves” until after the course is over because she fears retaliation.



WHAT SHOULD I DO?

Step 1: Listen

- ▶ Ensure the person is safe. Survivors of crimes such as sexual assault, stalking, domestic or dating violence are strongly encouraged to report the crime to law enforcement.
- ▶ Listen openly. Encourage the person to seek support services including medical attention if applicable.
- ▶ Be supportive. Refrain from judgmental questions. Don't allow myths to affect how you perceive the survivor.



WHAT SHOULD I SAY?

Step 2: Support

“I appreciate your coming to me for support. I want to make you aware of my role’s limitations. As an employee, I have an obligation to report any incident of sexual assault or misconduct to the Title IX Coordinator or a Deputy Coordinator. I also want to make you aware of resources on campus where you can discuss your situation confidentially and seek support if needed.”



WHO SHOULD I CONTACT?

Step 3: Report

- ▶ Report incident to the Title IX Coordinator or a Deputy Coordinator. The on-line reporting form can be found at: www.uta.edu/titleix.
- ▶ The on-line reports allow for anonymous reporting, however, responsible employees may not report anonymously.



Title IX Coordinator

Michelle Willbanks

Director Equal Opportunity
Services, Title IX Coordinator

Student and Administration Building
841 W. Mitchell St.

Arlington, Texas 76019

Telephone: 817-272-4585

titleix@uta.edu

eoaa@uta.edu

FILE REPORTS ONLINE AT:

www.uta.edu/titleix/

Deputy Title IX Coordinators:

Students

Heather Snow

Associate Vice President & Dean of Students

Telephone: 817-272-2354

hsnow@exchange.uta.edu

Faculty

Antoinette Sol, Ph.D.

Vice Provost for Faculty Affairs

Davis Hall, 701 Nedderman Drive, Ste 300

Arlington, Texas 76019

Telephone: 817-272-5243 or 817-272-2103

amsol@uta.edu

Staff, Visitors, and Contractors

Eddie Freeman

Executive Director

J.D. Wetzel Building,

1255 W. Mitchell St.

Arlington, Texas 76019

Telephone: 817-272-2106

efreeman@uta.edu

Athletics

Debbie Garcia

Executive Sr. Associate

Athletic Director

College Park Center,

601 Spaniolo Drive

Arlington, TX 76019

Telephone: 817-272-7170

ranee@uta.edu

WHAT TO REPORT

- ▶ ALL employees, including student employees, who “in the course and scope of their employment,” witness or receive information about an incident that the employee “reasonably believes to constitute sexual harassment, sexual assault, dating violence, or stalking” committed by or against a student or employee must “promptly report” the incident to the institution’s Title IX Coordinator or Deputy Coordinator, regardless of when or where the incident occurred.
- ▶ Share all information known, including the name of the persons involved, including witnesses or individuals who may have relevant information, date, time, location of incident, whether incident was reported to law enforcement, and **whether the alleged victim expressed a desire for confidentiality.**
- ▶ This includes information you witness, receive firsthand, receive secondhand or via “hearsay,” overhear, or are otherwise made aware of.



CONSEQUENCES FOR FAILURE TO REPORT

▶ If you fail to timely report a concern:

- Your delay could cause additional harm to the individuals involved.
- You could expose the University to legal liability.
- State law makes it a **Class B misdemeanor** (punishable by a maximum of 180 days in jail and/or a maximum fine of \$2,000) for a person who is “required to make a report and knowingly fails to make the report” or “with the intent to harm or deceive, knowingly makes a report that is false.” The offense is escalated to a **Class A misdemeanor** (punishable by a maximum of one year in jail/or a maximum fine of \$4,000) “if it is shown on the trial of the offense that the actor intended to conceal the incident that the actor was required to report.”
- In addition, the institution must terminate any employee who it “determines in accordance with the institution’s disciplinary procedure” did not make a required report.



CONSEQUENCES FOR FAILURE TO REPORT

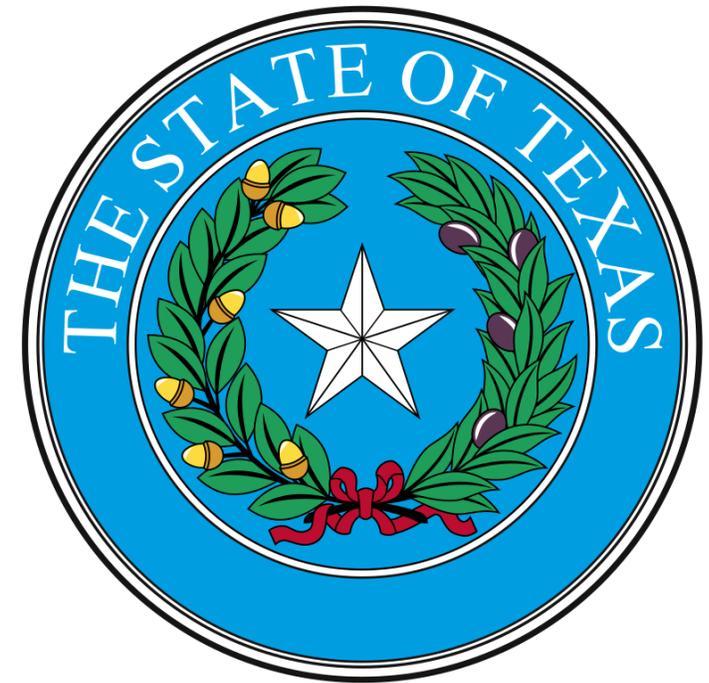
- ▶ **If you fail to timely report a concern (continued):**
 - The mandatory termination and/or potential criminal liability is not applicable to student employees.
- ▶ There is a **civil immunity** provision for any person who “in good faith” makes a report, assists in the investigation of a report, or otherwise participates in the institution’s disciplinary process. The immunity protection does not extend to those who perpetrated or assisted in the perpetration of a reported offense.



EXCEPTIONS TO MANDATORY REPORTING

Exceptions to Mandatory Reporting Requirement under Texas State Law:

- ▶ Employees designated as a “confidential employee”;
- ▶ An incident in which the employee was a victim; or
- ▶ An incident in which the employee received information due to a disclosure made at a public awareness event sponsored by the University or by a University sponsored student organization.



REMINDERS

- ▶ Your role is to report what you know. It is not your role to investigate, interview people, gather evidence, determine the truthfulness of the allegation or credibility of the parties or witnesses.
- ▶ You should **not** wait until an incident “rises to a certain level” before you make your report.
- ▶ You should **not** prejudge any of the parties involved.
- ▶ Incidents, whether ultimately deemed true or false, **should be** reported to appropriate university personnel.
- ▶ Retaliation against people who voice concerns, report, or participate in investigations and/or the disciplinary process is strictly **prohibited** and should be reported immediately to the Title IX Coordinator.



ADDITIONAL TIPS

What to say to a victim/survivor:

- ▶ I'm sorry this happened to you
- ▶ It wasn't your fault
- ▶ Thank you for telling me
- ▶ I'm always here if you want to talk
- ▶ Can I do anything for you?
- ▶ How can I support you?



ADDITIONAL TIPS

What NEVER to say to a victim/survivor

- ▶ It was your fault
- ▶ You could have avoided it had you _____ (e.g. been sober, stayed with your friends, locked your door, not led him/her on)
- ▶ You should not have _____ (e.g.) walked alone at night, dressed provocatively, gone to his/her room, had so much to drink, kissed him/her)
- ▶ It's been so long? Get over it!



ADDITIONAL TIPS

- ▶ You waited so long to tell someone, no one will believe you
- ▶ You wanted it / You were asking for it
- ▶ It's not that big of a deal, it happens to lots of people
- ▶ You should have fought back, left, called someone, said no...
- ▶ He/she/they is such a nice person and couldn't have done something like that
- ▶ What did you do to provoke him/her/them?



ADDITIONAL TIPS

- ▶ If you report him/her/them, you will ruin his/her/their future
- ▶ I would have _____ (done something differently than the survivor e.g. fought back, ran away, screamed, called the police)
- ▶ I don't believe you



DOs AND DON'Ts

- ▶ **DO** respect the survivor enough not to pity him/her/them
- ▶ **DO** comfort him/her/them. Make the environment comfortable
- ▶ **DO** allow him/her/them to tell as much or as little as they need
- ▶ **DON'T** try to solve all of their problems for him/her/them. He/she/they has had control taken away. Try to avoid doing that again
- ▶ **DON'T** pressure the survivor to do what you think he/she/they should do
- ▶ **DON'T** attempt to reassure the person that everything is "Okay" or tell him/her/they you know how he/she/they feels



FURTHER SUGGESTIONS

- ▶ Refer the survivor to the Title IX website and UTA's Sexual Misconduct Policy EI-PO8
- ▶ Remember you don't have to "fix" the situation, just be supportive
- ▶ Encourage the survivor to seek counseling, post-trauma services, and/or medical attention.
- ▶ When in doubt, report!
- ▶ For more information, contact the Title IX Office: titleix@uta.edu



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