



Interim University Policy 340: Required Reporting of Sexual Misconduct

Covered Individuals: All Employees

Responsible Executive: President

Policy Custodian: Executive Director of the Office of Equity

Last Revised: 2023/02/10

340.1 PURPOSE AND SCOPE

Utah State University is committed to providing a learning and working environment free from Sexual Misconduct, defined as conduct on the basis of sex that meets the definition of Relationship Violence, Sexual Harassment, Sexual Assault, or Sex-based Stalking, as those terms are defined in the [Definitions section](#) at the end of this Policy. Sexual Exploitation, as defined in the Definitions section, also is prohibited. To this end, the University encourages all individuals who have experienced Sexual Misconduct to report incidents to the Title IX Coordinator as soon as possible so that the University can take appropriate steps to support the individual and address the Sexual Misconduct. For additional information on the University's Sexual Misconduct policies, see [USU Policy 339: Title IX Sexual Misconduct in an Employment or Education Program or Activity](#) and [USU Policy 339A: Non-Title IX Sexual Misconduct](#).

This policy explains individuals' options for disclosing Sexual Misconduct. Although the University encourages individuals who have experienced Sexual Misconduct to report such incidents directly to the Title IX Coordinator, the University has different reporting options, including Reporting Employees and Designated Confidential Resources. Individuals who wish to disclose an incident of Sexual Misconduct should review this policy to understand under what circumstances information will be shared with the Title IX Coordinator and under what circumstances information will not be shared and will remain confidential. Disclosing Parties who are uncertain about a University employee's reporting obligation should ask the employee before disclosing information they wish to keep confidential.

This policy also provides details relating to the responsibilities of each designated group of employees when a Disclosing Party shares information about Sexual Misconduct with them. All employees should review this policy carefully to ensure they understand their responsibilities as either a [Reporting Employee](#) or a [Designated Confidential Resource](#). Questions about employee reporting obligations under this policy should be directed to the Title IX Coordinator in the Office of Equity.

340.2 POLICY

2.1 Reporting Employees

To ensure that the University can provide persons who have experienced Sexual Misconduct with Supportive Measures and information about resources, reporting options, including the option of filing a Formal Complaint, certain University employees are designated as Reporting Employees.

Not all employees are designated as Reporting Employees. The Title IX Coordinator, working with the Office of Human Resources, identifies Reporting Employees. The specific procedures governing the identification of Reporting Employees are provided in [USU Procedures 340: Required Reporting of Sexual Misconduct](#). Reporting Employees include, but are not limited to, those employees who have the authority to institute corrective measures concerning allegations of Sexual Misconduct, such as, Campus Security Authorities, University Police, Supervisors, faculty, campus administrators, Athletic department employees, resident assistants, and other similar individuals. Employees with an ongoing nine-month contract are considered Reporting Employees for a full twelve months.

2.1.1 Reporting Employee Obligations

Reporting Employees are required to report all information they receive concerning incidents of Sexual Misconduct to the Title IX Coordinator. A Reporting Employee is not required to report to the Title IX Coordinator information they receive outside of their employment duties where a privilege applies based on state law, federal law, or regulations. A Reporting Employee also is not required to report when they are the Claimant.

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 the Disclosing Party with information about [support services and additional reporting options](#). If an individual is in immediate physical danger, the Reporting Employee must call 911.

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

- 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);
- The date, time, and location of the alleged incident(s);
- The nature of the incident(s);
- A description of the incident(s);
- All documentation the Reporting Employee has received related to the incident (including all written notes);
- 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. The Incident Report must include the Reporting Employee's name and contact information. A single Incident Report can be submitted by an individual Reporting Employee or multiple Reporting Employees, 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.

2.1.2 Notice to Disclosing Party of Reporting Employee Reporting Obligations

Reporting Employees should inform the Disclosing Party of the Reporting Employee's obligation to report the disclosure of Sexual Misconduct to the Title IX Coordinator, along with information to assist the Disclosing Party to connect directly 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 when the disclosure of information about Sexual Misconduct is made: (1) as part of human subject research, subject to the review of the University's Institutional Review Board (e.g., a survey to collect data about trauma given to participants that asks if they experienced sexual violence); (2) to a Process Advisor and/or Support Person serving in that role in an Office of Equity Formal Investigation or Alternative Resolution process; or (3) during public health awareness events. The third exception does not apply if the Respondent is identified as a current Student or Employee.

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. When an exception to a Reporting Employee's obligation to report applies, Reporting Employees should provide any Student, program participant, or Employee with information about [support services and additional reporting options](#).

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: 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.

2.2 Designated Confidential Resources

Designated Confidential Resources are responsible for providing confidential advocacy and other professional services to the Disclosing Party. This includes the University's medical professionals and medical staff, professional counselors, non-professional counselors, and Sexual Assault and Anti-Violence Information Office (SAAVI) advocates.

Designated Confidential Resources provide critical support services to the Disclosing Party in a confidential and professional setting. Individuals who wish to seek support following an incident of Sexual Misconduct may generally, with a few exceptions as described below, disclose information to Designated Confidential Resources and the disclosure will remain confidential (i.e., it will not be reported to the University's Title IX Coordinator or result in an Office of Equity response).

The scope of confidentiality exists only in relation to the University. Designated Confidential Resources will explain the scope of confidentiality to any Disclosing Party, including that notes and information disclosed may be discoverable in certain legal actions.

2.2.1 Designated Confidential Resource Obligations

All Designated Confidential Resources must provide the Disclosing Party with: (1) information about [support services and reporting options](#); (2) notification that their disclosure to a Confidential Resource will not result in a report to the Title IX Coordinator or result in an Office of Equity response; and (3) an explanation that their personally identifiable information will remain confidential.

2.2.2 Professional Counselors and Medical Professionals and Staff

Professional counselors are not permitted to report to the University, including the Title IX Coordinator, except where required by state law, any information that a Disclosing Party shares with them about an alleged incident of Sexual Misconduct without the Disclosing Party's permission. Absent such permission, information disclosed to a professional counselor, or an employee working in the office of a professional counselor, will not result in an Office of Equity response under USU [Policies 339](#) and [339A](#).

The Professional Counselors in the following offices are Designated Confidential Resources:

- [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 \(SAAVI\)](#) (when conducting therapy services);
- Mind-Body [Bridging](#) Clinic; and
- [Student Health & Wellness Center](#).

2.2.3 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 anonymized information about Sexual Misconduct that has been revealed to them as having occurred on Clery Geography, see [USU Policy 533](#), including incident date, time, and location, to University Police. USU Police must 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.

Absent an immediate, ongoing, or significant threat to physical health or safety, or a pattern of Sexual Misconduct by Respondent, information shared with non-professional counselors and advocates will not initiate an Office of Equity response 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 \(SAAVI\)](#) (when conducting services other than therapy services)

2.2.4 Designated Confidential Resources Reporting Obligations

Designated Confidential Resources are required to report to the Title IX Coordinator all information concerning allegations of Sexual Misconduct that are alleged to have been committed by another Designated Confidential Resource.

An individual's medical, psychological, and other similar treatment records should not be shared by a Designated Confidential Resource directly to the Office of Equity without the individual's voluntary, written consent, except where such records may be evidence of Sexual Misconduct committed by a Designated Confidential Resource against a client or patron of a Designated Confidential Resource.

2.3 Other Employees

An employee who is not categorized as a Reporting Employee or Designated Confidential Resource ("Non-designated Employee") does not have obligations under this policy.

2.4 Additional Reporting Obligations

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

2.5 Training Requirements

Reporting Employees, Designated Confidential Resources, and Non-designated Employees are required to complete all training requirements as outlined in [Procedures 340](#). Supervisors of these employees must ensure that this training is completed.

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 knowledgeable about and compliant with this policy and complete all training required by this policy.

3.3 Employees

Employees that are classified as a Reporting Employee or Designated Confidential Resource are responsible for understanding and complying with this policy and related procedures. Employees are responsible for completing all training required by this policy.

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 Based on Protected Characteristics](#)
- [USU Policy 339: Title IX Sexual Misconduct in an Employment or Education Program or Activity](#)
- [USU Policy 339A: Non-Title IX Sexual Misconduct outside an Employment or Education Program or Activity](#)

340.6 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.

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.

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.

Formal Investigation. The evidence-gathering process that begins with the filing of the Formal Complaint by a Claimant or Title IX Coordinator 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.

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.

Process Advisor. Any person, including an attorney, chosen by a Claimant or Respondent to advise and assist the selecting party in any part of the Grievance Process, including any meeting with the Office of Equity, the Formal Investigation and/or hearing, and the Alternative Resolution process, including in conducting questioning of another party and Witnesses on behalf of the selecting party. A Process Advisor may be a parent, legal guardian, a USU faculty or staff member, a USU Student Association ("USUSA") Student Advocate, an attorney, or any other person with whom a Claimant or a Respondent wishes to consult during a disciplinary proceeding. A Process Advisor may accompany a student in a disciplinary proceeding and must adhere to the rules of the proceeding.

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.

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

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
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

U.S. Department of Education
Denver Regional Office
303-844-5695
OCR.Denver@ed.gov

Procedures

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