

Mandatory Reporting

MANDATORY REPORTERS: WHAT AND WHY?

There are three federal laws that establish responsibilities for employees of universities to report certain types of crimes and incidents, especially sexual misconduct -- the Clery Act, Title VII and Title IX. Additionally, state law creates a reporting duty regarding the abuse of minors, as well as sexual harassment, sexual assault, dating violence, or stalking committed by or against a student or employee. Each of these areas of federal law has a different purpose, but generally the laws are intended to protect members of the campus community, visitors and guests from criminal and discriminatory behavior. The responsibilities established by these laws give rise to the term "mandatory reporter." Reporting of concerning and disruptive behaviors is not legally mandated but is part of our Student of Concern program in early identification and detection of at-risk situations.

THE LEGAL CONTEXT AND UPDATE ON STATE LAW AS OF FALL 2019

Title IX focuses on the adverse consequences faced by those experiencing gender discrimination and sexual harassment and creates an obligation for the University to provide a "prompt and effective remedy." Title IX obligates the University to provide a safe environment that does not interfere with someone's right to pursue an education or employment opportunities, benefits or privileges. The University incurs obligations under Title IX when someone experiencing or aware of gender discrimination or sexual harassment has given notice to a "responsible employee," or when the University, in the exercise of reasonable care, should have known, about the assault or harassment. The U.S. Department of Education provides guidance on "responsible" versus "confidential" employees and their duties for or exemptions from mandatory reporting. That guidance is reflected in the information below.

State law now separately requires that if a mandatory reporter witnesses or receives information which the reporter reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking committed by or against a student or employee (while person is enrolled or employed), the mandatory reporter must immediately report the incident to the Title IX Coordinator or Title IX Deputy. In most cases, the identity of the students or employees involved may not be withheld in the report, but shall be maintained as confidential by the University. **A mandatory reporter's knowing failure to report such an incident is now a criminal offense and requires the University to terminate the person's employment.** Mandatory reporters who make a report in good faith are entitled to state law immunity in connection with the reporting. All employees who are victims of a Title IX violation and all students, regardless of involvement, are immune from liability and penalty.

The Title IX Coordinator shall submit a written report at least every three months to the university President with certain information regarding the reports received, including the investigations and dispositions that have been reported. The President shall submit a higher level report at least once in the fall or spring semester, to the Board of Trustees regarding the reports which have been received. This report shall not include individual identities and be published on the university's website. The President shall annually certify in writing to the Texas Higher Education Coordinating Board that the University is in substantial compliance with the state law reporting and investigation requirements.

Mandatory Reporting

MANDATORY REPORTING

Who Reports?

St. Edward's University defines all employees as mandatory reporters, unless exempted below. The University considers Resident Assistants to be mandatory reporters as well.

What Is to be Reported and to Whom?

If a mandatory reporter learns about sex/gender discrimination, whether from the person who experienced discrimination or someone else, that employee is expected to promptly contact the campus Title IX Coordinator Lisa Kirkpatrick (512-448-8425 or lisak@stedwards.edu) or Deputy Coordinators Melissa G. Esqueda, Human Resources Office (512-448-8540 or melissaesqueda@stedwards.edu) or Steven Pinkenburg, Dean of Students Office, (512-448-8408 or mailto:stevep@stedwards.edu.) The Coordinator will take responsibility for prompt notification to the University Police Department and other University officials as appropriate. Sex and gender discrimination include sexual harassment, sexual violence, intimate partner or relationship violence, gender-based hate crimes and stalking.

Concerning and disruptive student behaviors should be reported to the Dean of Students Office through Connie Rey Rodriguez, Associate Dean of Students and Director of Student Welfare, using the [online incident reporting form](#) or by calling the Dean of Students Office at 512-448-8408 (if Dean Rodriguez is unavailable, this call will be triaged).

When reporting misconduct covered under Title IX, University employees must provide full details of the incident if known, including all names and personally identifying information. Faculty, staff and student worker complaints, as well as third-party reports of conduct in violation of [Title IX policy should be made using the Title IX/Behavioral Reporting Form](#). If a person experiencing discrimination or harassment wishes for no action to be taken, the Title IX Coordinator must evaluate that request. The University is always guided by the goal of empowering the involved party and allowing that person to retain as much control over the process as possible. Typically, the University is compelled to act despite a reporting party's wishes when an incident evidences use of weapons, violence, threat, pattern or predation. Otherwise, a request for confidentiality or no action may be honored, with remedies offered to the person experiencing discrimination or harassment as appropriate.

Employees should not promise confidentiality unless their professional role is confidential, and they have received the report in that confidential capacity. If approached, it is appropriate to counsel, "I will be obligated to share what you tell me with administrative officials. If you would like, I can connect you with campus resources who can maintain the confidentiality or privacy of what you share with them." Where an incident involves off-campus conduct involving a member or members of the campus community, the reporting expectations of this policy still apply. If an employee is unsure of whether to report, consult with the Title IX Coordinator Lisa Kirkpatrick or deputy coordinators as listed above. These officials will guide an employee on what is to be reported, when and how.

Confidential Employees

Counselors, health service providers and clergy (sacramental act) are considered exempt from mandatory reporting, unless the person reporting to them asks them to report or a duty to report exists under state law based on an imminently harmful situation. Confidential employees are expected to report (a) aggregate data to University Police Department, per Clergy Act, without any personally identifiable details, unless the confidential employee determines on a case-by-case basis that reporting would not be in the best interest of their client/patient/parishioner, and (b) the type of incident reported for state law purposes, and may not include any information that would violate a student's expectation of privacy.

Mandatory Reporting

Designated Private Resources

SEU wants community members to have a safe space for reporting. Thus, it has designated certain advocates as private resources. These employees make reports in the form of non-personally identifiable [“Jane Doe” or “John Doe”] information.

Timely Warning

In some cases, the University Police Department may be required to release a timely warning to the community about a serious and ongoing threat to the community. In such cases, an initial investigation or determination of the nature of the threat may be conducted, after which a warning will be issued immediately. Reporting parties will not be identified in any warning that is released.

GUIDELINES FOR EMPLOYEES OF ST. EDWARD'S UNIVERSITY

1. When an employee becomes aware of an alleged act of sexual harassment, discrimination or assault, dating violence or stalking, the employee must promptly contact the Title IX Coordinator Lisa Kirkpatrick or Deputy Coordinators Melissa G. Esqueda, Human Resources Office or Steven Pinkenburg, Dean of Students Office. The employee may [report using the online form](#), report in person, email a report, or report by phone. If there is any immediate concern regarding health and safety, the employee should call the University Police Department for an immediate response.
2. The Title IX Coordinator will promptly inform University Police about the report as necessary.
3. When an employee thinks that a student may be about to report an act of sexual harassment, discrimination or assault, dating violence or stalking, the employee should, if at all possible, tell the student that the University will maintain the privacy of the information, but the employee cannot maintain complete confidentiality and, is required to report the act and names of the parties involved. If the student wishes to proceed, the employee should inform the student of the implications of sharing the names of the parties involved, which puts the University on notice.
 - a. Rather than speaking to the student about confidential information, the employee can offer to refer or accompany the student to Health & Counseling Center during the hours that the office is open or, after hours, the student can call the on-call counselor at 512-448-8444 and request to speak to a counselor.
 - b. The Title IX Coordinator is also available to provide guidance on how to handle a situation to faculty and professional staff at any time by calling 512-448-8425 during business hours or after hours through University Police Department at 512-448-8444.