

RESPONDENT GUIDE

2019-20

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Developed for you by the

Office of Title IX

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Being accused of sexual misconduct, dating violence, domestic violence, stalking, or retaliation can be a confusing and stressful experience. This booklet provides an overview of information, support, and processes for students who have been accused of prohibited conduct.

The term prohibited conduct, as used in this booklet and the university policy, refers to sexual misconduct, relationship violence, stalking, and retaliation. A brief overview of prohibited conduct is found within this booklet. More extensive definitions of these terms and related terms can be found at titleix.utk.edu.

If you have questions about this policy or how the university works with students, or if you need assistance, the university's Title IX coordinator and deputy Title IX coordinators are trained and accessible to discuss care, support, and reporting options. A full list of Title IX officials is included on page 11.

DEFINITIONS

For the purposes of this booklet, the **complainant** is the person who reports that they have been subjected to prohibited conduct.

The **respondent** is the person who has reported to have engaged in prohibited conduct.

A **reasonable person** is a sober, objectively reasonable person in the same situation, with ordinary sensitivities, and with similar identities to the person whose words and/or conduct are being evaluated by the person.

Incapacitation means that a person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have control over their body, is unaware that sexual activity is occurring, or their mental, physical, or developmental abilities render them incapable of making rational informed decisions. Incapacitation is not the same as legal intoxication.

A person violates this policy when they engage in sexual activity with another person who is incapacitated and a reasonable person in the same situation would have known that the person is incapacitated.

Sexual misconduct includes sexual assault, sexual harassment, and sexual exploitation.

Sexual assault includes nonconsensual sexual penetration, nonconsensual sexual contact, and conduct

that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

Sexual harassment, with respect to conduct by a student, means (1) verbal or physical conduct (2) on the basis of sex, which includes gender, pregnancy, sexual orientation, gender identity, and gender expression, (3) that is so severe, pervasive, and objectively offensive (4) that it unreasonably interferes with or denies a person the ability to participate in or benefit from a university education program or activity.

Sexual exploitation means taking sexual advantage of another person, without that person's active agreement.

Relationship violence means an act of violence, or a threat of an act of violence, committed by a person who is or has been in a sexual, dating, spousal, romantic, or other intimate relationship with the complainant.

Stalking means engaging in a course of conduct directed at a specific person, regardless of one's relationship with that person, which would cause a reasonable person to fear for the person's safety or the safety of another person or suffer substantial emotional distress.

Retaliation means an action taken because of a person's participation in a protected activity and that would discourage a reasonable person from engaging in protected activity.

RESPONDENT SUPPORT

If you have been identified as a respondent in an investigation being conducted by the university's Office of Student Conduct and Community Standards or as the subject of a law enforcement investigation, you are encouraged to contact the Office of Title IX about respondent support services. They will work with you to evaluate your care and support needs and discuss your options under university policy. The process empowers you to obtain the care and support you need and enables the university to respond appropriately, including conducting a prompt, thorough, and equitable investigation.

Support Offered by the Office of Title IX

The Office of Title IX is not a confidential resource; however, they will keep information provided as private as possible.

You can meet with a representative of the university's Office of Title IX by phone or in person to discuss your situation and connect with resources and support during an investigative process. The Title IX coordinator evaluates requests and grants support services as reasonable and necessary for each individual.

Possible assistance is available in obtaining interim measures that may include:

- A no-contact directive
- Medical, advocacy, or counseling services
- Exploration of changes in class and extracurricular schedules, including adjustments so that the complainant and respondent do not share the same classes
- Exploration of changes in living, transportation, dining, and working arrangements
- Appointments for follow-up support services on or off campus
- Assistance communicating with faculty members
- Requesting that directory information be removed from public sources by the Office of the University Registrar
- Requesting academic support, including tutoring
- Requesting academic accommodations such as rescheduling exams, obtaining extensions of time for assignments, retaking a course, dropping a course, or withdrawing for a semester without financial or academic penalty

University Advisor

The Office of Student Conduct and Community Standards and university advisors are not confidential resources; however, they will keep information provided as private as possible.

Upon request, the Office of Student Conduct and Community Standards will provide you with a list of university advisors—university employees who are trained in the student conduct process.

The advisor's role is limited to assisting, advising, and supporting you during the student conduct process. Your advisor can support you by attending meetings (investigative conversations, housing removal or relocation discussions, or resolution agreement discussions) as a support person and reviewing documents and materials from the investigation, final report, and sanctioning decisions.

A university advisor will treat you with respect, dignity, and sensitivity throughout the process and will consider all the facts you share with them to provide you with appropriate resources and information.

Your university advisor will not be permitted to speak for you or on your behalf, appear in your place, participate as a witness, or participate directly in any other manner during the student conduct process. **University advisors and the Office of Title IX cannot:**

- Advocate on your behalf
- Serve as a confidential resource
- Provide legal advice
- Provide responses or statements on your behalf to the Office of Student Conduct and Community Standards

You have the option of choosing a friend or attorney who is not employed by the university to serve as your advisor. Your advisor's schedule must allow attendance at meetings and hearings as scheduled by the office of Student Conduct and Community Standards. Meetings and hearings generally will not be rescheduled to meet an advisor's needs.

In a Uniform Administrative Procedures Act Hearing, you are entitled to have an attorney advocate on your behalf.

WHAT TO EXPECT IN A UNIVERSITY INVESTIGATION

If you have been named a respondent in a misconduct investigation, the Office of Student Conduct and Community Standards will send a Notice of Educational Conference to your official university email address. At the educational conference:

- You will be verbally informed and, if you request, provided with a reasonable opportunity to review any written allegations.
- You have the opportunity to respond to the allegations, present information concerning the allegations, and identify witnesses who can provide additional information.
- You and other participants in the conference may ask questions and seek clarifying information about the allegations, possible sanctions, and the student conduct process.

Based on information you provide during the educational conference, Student Conduct and Community Standards may issue a no-action determination (per Section 7.4.1 of the Student Code of Conduct) or continue its investigation.

WHAT TO EXPECT IN A LAW ENFORCEMENT INVESTIGATION

If a report of prohibited conduct was made to law enforcement, the law enforcement agency within the jurisdiction will contact you for an interview. The police interview may take as long as several hours, depending on the circumstances of your case. Some questions will probably feel intrusive, and the officer will probably go over the details several times. The extensive questioning is not because the police do not believe you; it is the officer's job to get every detail down precisely.

Multiple interviews may be required, and throughout the process, law enforcement officials will keep you aware of the progress of your case. The district attorney will decide whether to pursue prosecution.

SUPPORT AND RESOURCES

Being accused of prohibited conduct can be a confusing and overwhelming experience. Resources both on campus and in the community can assist you with working through the process as well as providing support.

For a medical or mental health emergency, call 911.

CAMPUS RESOURCES

Confidential Campus Resources

Student Counseling Center

1800 Volunteer Blvd., Suite 200
865-974-2196
865-974-4357 (24-hour help line)
counselingcenter.utk.edu

Provides students with personal counseling, psychotherapy, and psychological outreach and consultation services. Mental health providers are available during weekday business hours for appointments and after hours and on weekends through the help line.

Student Health Center

1800 Volunteer Blvd.
865-974-3135
studenthealth.utk.edu

Provides students with an acute care/triage nurse, primary care clinic, sports medicine clinic, and women's health clinic.

Limited Confidentiality

After-Hours Help Line

865-974-4357
5 pm to 8 am

The after-hours helpline is confidential only from 5 pm to 8 am. When you call the help line after hours, you will be connected with someone who can talk to you about options, resources, and support. The most important thing is to talk with someone who can provide emotional support and help you plan.

Nonconfidential Campus Resources

Office of Title IX

1817 Melrose Ave.
865-974-9600
865-974-4357 (24-hour help line)
titleix.utk.edu

UT Police Department

1101 Cumberland Ave.
865-974-3114
Emergency: 911 or 865-974-3111
utpolice.utk.edu

Works to ensure safety on campus and in the immediate surrounding area and provides programming for students to increase awareness, personal safety, and property security.

Office of Equity and Diversity

1840 Melrose Ave.
865-974-2498
oed.utk.edu

Works with mandates set out by state and federal law and university policies related to civil rights, equal employment, and affirmative action. Investigates and resolves faculty- and staff-related reports of sexual misconduct, relationship violence, stalking, and retaliation.

Office of Student Conduct and Community Standards

405 Student Services Building
865-974-3171
studentconduct.utk.edu

SCCS staff members serve as advisors to the student judicial system and, when necessary, initiate appropriate disciplinary proceedings, including investigation and resolution of any accusation of sexual misconduct, relationship violence, stalking, and retaliation.

Our Title IX Model



Grounded in the social ecological model, the university's Title IX commitment emphasizes five key areas:

Policy. Our foundation is in the policy and procedures we follow.

Prevention. Our goal is to prevent sexual misconduct, relationship violence, stalking, and retaliation before they happen.

Support and interim measures. Our promise is to provide support and appropriate interim measures to individuals involved in the Title IX process.

Investigation and resolution. Our commitments to due process, campus safety, and encouraging reporting guide how we investigate and resolve reports.

Patterns and trends. Our responsibility is to utilize the best available research, evidence-based practice, and our own campus trends in our prevention and response efforts.

Title IX Coordinator

Ashley Blamey
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865-974-9600
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titleix.utk.edu

Deputy Title IX Coordinator for Student Support

Sarah Thomas
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865-974-9600
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Deputy Title IX Coordinator for Prevention, Training & Evaluation

Laura Bryant
1817 Melrose Ave.
865-974-9600
lbryant7@utk.edu
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Director of the Office of Student Conduct & Community Standards, Deputy Title IX Coordinator for Student Conduct

Betsy Smith
405 Student Services Building
865-974-3171
bbsmith@utk.edu
studentconduct.utk.edu

Deputy Title IX Coordinator for Intercollegiate Athletics

Tara Brooks
Brenda Lawson Athletic Center
1551 Lake Loudoun Blvd.
865-974-6122
tbrooks3@utk.edu

Associate Vice Chancellor and Director of the Office of Equity and Diversity, Deputy Title IX Coordinator for OED

Jennifer Richter
1840 Melrose Ave.
865-974-2498
jrichter@utk.edu
oed.utk.edu

Clery Compliance Coordinator; Deputy Title IX Coordinator for Law Enforcement and Clery Compliance

Jillian Paciello
UT Police Department
1101 Cumberland Ave.
865-974-0544
jpaciell@utk.edu
clery.utk.edu
utpolice.utk.edu

In accordance with Title IX of the Education Amendments Act of 1972, UT policy prohibits discrimination on the basis of sex in any education program or activity. Reports or complaints of sex discrimination or prohibited conduct, or questions about the university's policies, procedures, resources, or programs concerning any of those issues, may be directed to the university's Title IX coordinator or one of the university's deputy Title IX coordinators.

Appendix A: Respondent Rights

Student Code of Conduct, Section 5.1: Rights of the Respondent

The following summarizes the rights granted to a Respondent in the student conduct process:

- (1) Right to be assisted by an Advisor during all stages of the student conduct process, in accordance with Section 5.3;
- (2) Right to an opportunity for an Educational Conference, in accordance with Section 6.6;
- (3) Right to resolve allegations of misconduct and/or sanctions through a Formal Hearing, in accordance with Section 7.2;
- (4) Right to receive notice of meetings and hearings at which the Respondent may be present and receive access to records used during those meetings and hearings, as provided in the Code;
- (5) Right to the presumption of innocence (i.e., the Conduct Officer bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct, as alleged in the Notice of Allegations);
- (6) Right to not be directly questioned in a hearing by anyone other than the Student Life Hearing Officer or the Chairperson of the Student Conduct Board ("SCB");

(7) Right to challenge the fairness and/or impartiality of a Student Life Hearing Officer, a member of the SCB, or a member of the Appellate Board;

(8) Right to have a SCB Hearing conducted in accordance with Article VIII including, without limitation, the right to present information to the SCB, the right to propose questions for the Chairperson to ask witnesses, the right to request that information be excluded from the SCB's consideration, and the right to make a closing statement;

(9) Right to refrain from presenting information and witnesses during a hearing before the Student Life Hearing Officer or the SCB, and the right to not have the Student Life Hearing Officer or SCB draw an inference adverse to the Respondent if the Respondent chooses not to present information or witnesses;

(10) Right to Notice of Decision of the SCB, in accordance with Section 8.5;

(11) Right to appeal the decisions of the SCB that are contained in the Notice of Decision, in accordance with Section 8.6;

(12) Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, SCCS, a Student Life Hearing Officer, the SCB, and/or the Appellate

Board (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Complainant's receipt of a copy of the notice of the decision;

(13) Right to appeal a decision issued by SCCS, a Student Life Hearing Officer, and/or the SCB, and receive a notice containing information about the right to appeal simultaneously with the Complainant's receipt of a notice of such information, in accordance with Articles VII and VIII.

Appendix B: Confidentiality, Privacy, and Campus Crime Statistics

Confidentiality and privacy are not the same. Confidentiality is limited to someone who, by law, can keep information confidential. Information communicated to the Office of Title IX or other mandatory reporters cannot be treated as confidential but will be kept private and shared only with university employees who need to be involved in responding to or addressing a report.

In accordance with the Family Educational Rights and Privacy Act of 1974, or FERPA, personally identifiable information concerning a student report to a university official who is not a law enforcement officer (for example, to the Office of Title IX) will not be disclosed to third parties outside the university without the consent of the student except in response to a lawfully issued subpoena or as otherwise required or allowed by law.

In contrast to a report to a university administrative official, incident reports prepared by UTPD for law enforcement purposes are generally considered public records under the Tennessee Public Records Act (Tennessee Code Annotated § 10-7-503 et seq.) and are not protected by FERPA, which means the university is obligated by law to make them available

to any Tennessee citizen upon request unless the report is part of an ongoing criminal investigation. Local law enforcement agencies may also be required to make their records available under similar circumstances. In addition, investigative reports prepared by other university officials that do not contain personally identifiable student information also are generally considered public records under the Tennessee Public Records Act.

However, Tennessee law provides that information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in Tennessee Code Annotated § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in Tennessee Code Annotated § 40-39-202, must be treated as confidential and not be open for inspection by members of the public under the Tennessee Public Records Act.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics (Clery) Act is a federal law requiring all higher education institutions that receive federal financial aid to report crime statistics to their communities. This includes statistics related to sexual misconduct, relationship violence, and stalking that occur on UT-controlled property.

Certain individuals on campus who are designated campus security authorities or CSAs are required to submit reports to the Clery compliance officer at UTPD, who keeps a log of all Clery crime statistics reported within the past 60 days at clery.utk.edu/crime-log. Not all incidents reported to the Office of Title IX result in a safety notice to the community. For questions about Clery statistics, CSAs, or the crime log, contact the Office of Title IX or the Clery compliance officer.

For more information about the Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation, confidentially, privacy, or FERPA as related to reports of prohibited conduct, see titleix.utk.edu.

