

Information

Title IX Employee Sexual Misconduct

Effective

August 14 2020

Number

PER 1 23

Applicability

This policy applies to all members of the University of Louisville University community including employees students non University employees participating in University related activities or programs third party contractors and vendors and visitors if the Respondent is an employee and the jurisdictional requirements of Title IX are met If the Respondent is a student the complaint will be reviewed and addressed in accordance with the University s Title IX Student Sexual Misconduct Policy If the Respondent is a third Party the Report will be routed to the University of Louisville Police Department ULPD for resolution which may include criminal or administrative responses

Administrative Authority

Executive Vice President of Legal Governance and External Relations Chief Legal Counsel

Responsible Unit

Office of Legal Compliance and Investigations

Title IX Office

Grawemeyer Hall, Suite 202B

Email: titleix@louisville.edu

History

Revision Date(s): August 24, 2020; April 9, 2021; October 19, 2021; December 1, 2021 (minor edits to email); August 16, 2022; November 16, 2022; April 13, 2023; August 16, 2023; September 13, 2023; April 3, 2024; November 13, 2025

Categories

Statement:

The University is committed to fostering an atmosphere free from Sexual Misconduct. The University will take prompt and appropriate action to eliminate Sexual Misconduct, prevent recurrence, and remedy any effects on the Complainant or those involved in the complaint process. If, in the process of the investigation, the University determines that the alleged conduct does not fall within the scope of this or other University policies, both the Complainant and the Respondent will be notified in writing.

Any University employee who is the victim of or been a witness to Sexual Misconduct in the workplace should promptly notify the Title IX Office at 502-852-1198 or titleix@louisville.edu. In an emergency, individuals should contact ULPD at 502-852-6111 or call 911.

This policy will be utilized if the Respondent is an employee and the jurisdictional requirements of Title IX are met. If the case does not meet the jurisdictional requirements for Title IX, the case may be administered through other University policies as applicable. If the Respondent is a student, the Report will be addressed in accordance with the University's Title IX Student Sexual Misconduct Policy. If the Respondent is a third Party, the Report will be routed to ULPD for resolution which may include criminal or administrative responses.

This policy and associated procedures are not intended to restrict any rights that would otherwise be protected by the First Amendment of the U.S. Constitution; deprive a person of any rights that would otherwise be protected under the Due Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution; or restrict any other rights guaranteed by the U.S. Constitution.

The University cannot impose any restrictions on the ability of the Parties to discuss the allegations or gather evidence throughout the investigative process. Nor can the University use questions or evidence throughout the investigation that constitute or seek disclosure of information protected under a legally recognized privilege unless the person holding the privilege has waived the privilege.

Language in this policy notwithstanding, the University reserves the right to investigate activities or behaviors that potentially violate other University's policies, procedures, and standards, irrespective of whether an investigation moves forward under this policy.

JURISDICTION

Once the University has Actual Knowledge of an alleged violation, jurisdiction under Title IX requires that any act prohibited occur:

- Against a person within the United States, and
- Within the University's education programs or activities including locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which Sexual Misconduct occurs. This includes any building(s) owned or controlled by a student organization that is officially recognized by the University.

TITLE IX MANDATORY REPORTING

A mandatory reporter is required to report incidents of alleged Sexual Misconduct to the Title IX Office. All University employees are considered mandatory reporters unless they are specifically designated as a confidential resource and as such, are expected to provide information regarding possible violations of this policy as soon as reasonably possible. Mandatory reporters include but are not limited to: President, Vice Presidents, Deans, Department Chairs, Directors, and Coaches; Assistant or Associate Vice Presidents, Vice Provosts, Associate and Assistant Provosts; any employee in a supervisory or management role; all Faculty; ULPD Officers; and any contracted security personnel.

RETALIATION

The University prohibits Retaliation against any person who makes a report in good faith under this policy. Individuals who feel they are victims of Retaliation as prohibited by this policy shall contact the Title IX Office at 502-852-1198 or titleix@louisville.edu.

Related Information:

[Reports of Bias, Discrimination, and Harassment Policy](#)

[Duty to Report and Non-Retaliation Policy](#)

[Intimate Relationships Policy](#)

[Sexual Harassment Policy](#)

[Title IX Student Sexual Misconduct Policy](#)

[Sexual Misconduct Resource Guide](#)

CONFIDENTIALITY, PRIVACY, AND REPORTING

Employees and students should be aware of confidentiality, privacy, and mandatory reporting requirements in order to make informed choices.

If a person desires the details of the incident to be kept confidential, the resources listed below are appropriate. In addition, members of the clergy and chaplains are allowed by law to keep reports confidential. Seeking support from any of these resource organizations is not considered an official Report of any type of Sexual Misconduct to the University. The individuals, at these resource organizations listed below, facilitate a report and advocate for individuals who request assistance.

A person may seek advice from certain individuals who are not required to report to anyone else private, personally identifiable information unless there is cause or fear for the reporting person's safety or the safety of others. Confidential resources are individuals whom the University has not specifically designated as "responsible employees" for purposes of putting the University on notice and for whom mandatory reporting is not required, other than in the stated limited circumstances, such as statistical reporting required by the Clery Act.

Prevention, Education and Advocacy on Campus and in the Community (PEACC) Center is available to provide advocacy and confidential assistance to University students, staff, and faculty who are affected by Sexual Misconduct. An advocate can listen, discuss options, and assist in accessing medical care, housing accommodations, academic concerns, and/or referrals to various resources.

Campus Resources

PEACC Center

2100 S. Floyd Street

Student Activities Center, W309 Louisville, KY 40292

Phone: (502) 852-2663

Website: louisville.edu/peacc

University Counseling Services

2100 S. Floyd Street, W204 Louisville, KY 40208

Phone: (502) 852-6585

Website: louisville.edu/counseling

Health Sciences Campus

500 S. Preston St.

A Building -- Rooms 219 and 220

Louisville, KY 40292

Phone: (502) 852-0996

Website: louisville.edu/medicine/studentaffairs/student-services/hsc-counseling-services

Campus Health Services Clinic Cardinal Station Center

215 Central Avenue - Suite 110

Louisville, KY 40208

Phone: (502) 852-6479

Website: louisville.edu/campushealth

Health Sciences Center

University of Louisville Outpatient Care Center

401 E. Chestnut Street, Suite 110

Louisville, KY 40202

Phone: (502) 852-6446

Community Resources

Center for Women and Families Crisis Line:

927 S. 2nd Street

Louisville, KY 40201

Phone: (877) 803-7577

Sexual Assault Nurse Examiner (SANE)

In Jefferson County, most examinations that include the collection of evidence (Sexual Assault, Sexual Misconduct, intimate partner abuse) are performed by the Louisville SANE Program at one of their two locations:

University of Louisville Hospital Emergency Room

530 S. Jackson Street

Louisville, KY 40202

Phone: (502) 562-4064

Center for Women and Families SAFE Services

927 S. 2nd Street

Louisville, KY 40201

Phone: 1-844-BE-SAFE-1

All emergency rooms in the Commonwealth of Kentucky are authorized and required to provide this service. These services can be provided by a physician, Sexual

Assault nurse examiner, and/or another qualified medical professional. Physical evidence of a criminal Sexual Assault must be collected from the alleged victim's person as soon as possible. Having evidence collected will help to keep all options available to a victim, but this will not obligate the victim to any course of action. The evidence collected may assist the authorities should the victim decide later to pursue criminal charges.

FEDERAL AND STATE OFFICES

Some forms of harassment and discrimination may violate federal and state laws, and a Complainant or Respondent may choose to contact the following agencies regarding their complaint:

U.S. Department of Education

Office for Civil Rights (Atlanta Office)

61 Forsyth St. S.W., Suite 19T10

Atlanta, GA 30303-8927

Telephone: 404-974-9406

FAX: 404-974-9406; TDD: 800-877-8339

Email: OCR.Atlanta@ed.gov

<https://www.ed.gov/laws-and-policy/civil-rights-laws/file-complaint>

Kentucky Commission on Human Rights

332 W. Broadway, 7th Floor

Louisville, KY 40202

Phone: (502) 595-4024 or 1-800-292-5566

Email: kchr.mail@ky.gov

Federal Equal Employment Opportunity Commission

600 Dr. Martin Luther King, Jr. Place, Suite 268

Louisville, Kentucky 40202

Phone: 1-800-669-4000

TTY: 1-800-669-6820

Website: www.eeoc.gov

FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials have a duty to report Sexual Misconduct for federal statistical reporting purposes such as the Clery Act. All personally identifiable information is kept confidential, but statistical information must be passed along to

campus law enforcement regarding the type of incident and its general location (on or off-campus; in the surrounding area, but no addresses are given) for publication in the annual [Campus Security Report](#). This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

FEDERAL TIMELY WARNING REPORTING OBLIGATIONS

Parties should also be aware that the University must issue timely warnings for incidents reported that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that personally identifiable information such as a victim's name and other identifying information is not disclosed, while still providing sufficient information for community members to make safety decisions in light of the danger. The report for timely warning is intended to help to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

KENTUCKY LAW REQUIRING MANDATORY REPORTING

Kentucky law requires that any person who suspects that a minor child (under 18) is the victim of abuse or neglect must immediately contact a local law enforcement agency or other agency authorized by statute KRS 620.030. ULPD constitutes a local law enforcement agency for purposes of Kentucky's mandatory reporting law for child abuse and neglect. Failure to report suspected abuse may result in criminal charges and/or disciplinary action.

Kentucky law also requires that any professional who has reasonable cause to believe that a victim with whom they have had a professional interaction has experienced Domestic Violence and abuse or Dating Violence and abuse, the professional shall provide the victim with educational materials related to Domestic Violence and abuse or Dating Violence and abuse including information about how the victim may access regional Domestic Violence programs or rape crisis centers and information about how to access protective orders per KRS 209A.100. The ULPD can be reached at 502-852-6111.

Reasoning:

To inform the members of the University community about the University's Title IX Employee Sexual Misconduct Policy and reaffirm the University's commitment to prohibiting and responding to Sexual Misconduct. This Policy also outlines the procedures for handling Sexual Misconduct complaints made against University employees, reporting options, and resources for all members of the University community.

Definitions:

ACTUAL KNOWLEDGE means notice of allegations of Sexual Misconduct to any University Official who has the authority to institute corrective measures on behalf of the University. The Actual Knowledge standard is not met when the only University Official with Actual Knowledge is the Respondent.

ADVISOR is an individual required to accompany the Complainant and Respondent for the purpose of cross-examining the opposing Party and any witnesses at the hearing. The Advisor cannot be a Party or witness to the complaint.

BIAS INCIDENT is defined as noncriminal conduct that is alleged to constitute an act or statement against a particular group or individual because of the group's or individual's religion, race, sex, color, or national origin, or perceived religion, race, sex, color, or national origin.

COMPLAINANT is an individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct.

CONSENT means freely given agreement by a person with capacity to engage in sexual activity at issue. A person who is incapacitated (as defined below), lacks capacity and cannot give effective Consent. In order for individuals to engage in sexual activity of any type, all involved individuals must Consent to such activity prior to and throughout any sexual encounter. Consent to one sexual act does not constitute Consent to any other such acts; Parties to a sexual encounter must ensure that they have the affirmative Consent of the other individual(s) involved for each sexual act. Affirmative Consent may manifest itself differently depending on the context. "No" always means "no." Words or perceptible actions other than an explicit "yes" may be sufficient to indicate Consent, depending on the totality of the circumstances of each case. Regardless of the circumstances, Consent to any form of sexual activity can be withdrawn at any time, by any Party to a sexual encounter, at any point during the encounter. This is true regardless of what sexual acts (or with whom) the individual(s) in question may have engaged in or agreed to previously, and regardless of the nature of the relationship between the Parties.

DATING VIOLENCE means violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; (B) where the existence of such a relationship shall be determined based on the consideration of the following factors:

- Whether or not a dating relationship exists is determined (1) by the length of the relationship, (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

- This includes threats, assault, property damage, and violence or threat of violence to one's self or to pets of the romantic or intimate partner when used as a method of coercion, control, punishment, intimidation, or revenge.

DAYS means business days as defined by the University academic calendar.

DECISION-MAKER is the individual who will preside over the Title IX hearing and is charged with determining whether the Respondent is responsible for violating this policy. The Decision-Maker will make all determinations of relevancy, evaluate the evidence presented, control the tone and tenor of the hearing, and make findings of fact and conclusions as to whether Sexual Misconduct or violations of University policy occurred. The Decision-Maker will be a retired judge or experienced attorney who has contracted with the University to preside over Title IX hearings.

DOMESTIC VIOLENCE is defined as crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

FORMAL COMPLAINT is a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Misconduct against a Respondent and requesting that the University investigate the alleged Sexual Misconduct. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the University with which the Formal Complaint is filed.

HEARING OFFICIAL is an individual who will facilitate the hearing's logistics. The Title IX Coordinator, or their designee, will serve as the Hearing Official.

INVESTIGATOR is a person or persons designated by the University to conduct and/or oversee the investigation of a Formal Complaint. The Investigator is a neutral, trained professional that gathers evidence, interviews Parties involved, and prepares an investigative report, ensuring a fair and equitable process for all. Officials serving as Title IX Investigators may include both external individuals and employees.

INCAPACITATION is a state in which a person cannot make rational decisions as to whether or not to engage in sexual activity because the person lacks the ability to give knowing Consent (i.e., to understand the "who, what, when, where, why, or how" of the sexual interaction). A person may be incapacitated due to mental disability, being asleep, unconsciousness, involuntary physical restraint, from the

effects of alcohol or other drugs, or because they are below the minimum age of Consent in the state where the sexual activity occurred. It is important to note that while a person can be incapacitated by intoxication, intoxication (in which case a person is under the influence of alcohol or drugs) does not constitute Incapacitation unless it renders the person unable to Consent as described herein. In every case, the facts are evaluated to assess whether the person in question was capable of providing Consent, and whether a reasonable person in the Parties' positions would perceive the person as being capable or incapable of providing Consent.

PARTY OR PARTIES means Complainant or Respondent and is signified by the singular "Party", and both are signified by the plural "Parties."

PROBABLE CAUSE means a reasonable basis for believing that a violation of this policy may have occurred.

REPORT is a disclosure of an incident of Sexual Misconduct, which can be done in person, online, or through other designated methods. A report notifies the University about a potential Title IX violation and generates outreach to the Complainant. A report does not automatically start a formal investigation.

See FORMAL COMPLAINT.

RESPONDENT is an individual who has been reported to be the perpetrator of conduct that may constitute Sexual Misconduct.

RETALIATION is any form of adverse action, or threat of adverse action, taken against an individual because an individual reported a complaint of actual or suspected misconduct or participated in an investigation or complaint review process.

SEXUAL ASSAULT means any forcible and non-forcible sex offenses from the Federal Bureau of Investigation's classification system, to include rape, criminal sexual contact, incest and statutory rape.

- **Rape** is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving Consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of Consent.
- **Criminal Sexual Contact** is the intentional touching of the clothed or unclothed body parts without Consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without Consent of

the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

- **Incest** is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** is nonforcible sexual intercourse with a person who is under the statutory age of Consent.

SEXUAL EXPLOITATION occurs when an individual takes non-consensual or abusive sexual advantage of another for that individual's own advantage or benefit, or to benefit or advantage anyone other than the individual being exploited.

Examples of sexual exploitation include, but are not limited to:

- Secretly watching, recording, or photographing someone in a private setting, such as a restroom or changing area, without their knowledge or Consent (voyeurism);
- Allowing or enabling a person to surreptitiously observe, photograph, audiotape, videotape, or record an image of another person who is engaging in sexual act(s), or another person's breasts, buttocks, groin, or genitals, when the person observed, photographed, audiotaped, or recorded is in a place in which the person has a reasonable expectation of privacy;
- Exposing one's genitals in non-consensual circumstances or inducing another to expose their genitals;
- Knowingly transmitting a sexually transmitted infection (STI) to another;
- Taking non-consensual pictures, video-, or audio-recording of sexual activity, or the nonconsensual distribution of; or
- Prostituting another.

[Sexual Exploitation that meets the definition of Sexual Harassment (Title IX) will be addressed pursuant to that definition and associated procedures.]

SEXUAL HARASSMENT means conduct on the basis of sex that satisfies one or more of the following:

- An employee of the University conditioning the provision of an aid, benefit or service of the University on an individual's participation in unwelcome sexual conduct (often referred to as quid pro quo);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or

- Sexual Assault, Dating Violence, Domestic Violence or Stalking (otherwise defined herein).

SEXUAL MISCONDUCT is an omnibus term that applies to all misconduct covered by this policy. Sexual Misconduct includes Sexual Harassment (includes quid pro quo and hostile environment); Sexual Assault; Domestic Violence; Dating Violence; and Stalking.

STALKING is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. Stalking behaviors may include persistent patterns of leaving or sending the person(s) unwanted items or gifts ranging from seemingly romantic to bizarre, following the person(s), or lying in wait for the person(s), harassing the person(s) via the internet or other forms of online and/or electronic communications (i.e., cyberstalking), or interfering with a person's property.

STANDARD OF PROOF for incidents of Title IX Sexual Misconduct is a preponderance of evidence. Preponderance of evidence means that the evidence supports that a given allegation is more likely to be true than not true. The technical rules of evidence applicable to civil and criminal cases shall not apply when resolving incidents as outlined in this policy.

SUPPORTIVE MEASURES means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint. Supportive measures may be offered to either party, irrespective of whether a Formal Complaint is filed or not. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the recipient's educational environment, or deter Sexual Misconduct. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

TITLE IX COORDINATOR is responsible for ensuring University compliance with Title IX, a federal law prohibiting sex discrimination. The Title IX Coordinator is responsible for oversight of responses to all reports of possible Sexual Misconduct under this policy. The Title IX Coordinator is synonymous with Title IX Director.

UNIVERSITY OFFICIAL for the purposes of this policy is either the Title IX Coordinator (Title IX Director), Deputy Title IX Coordinator, or Title IX Coordinator's designee.