

TITLE IX PRESENTATION

Thursday, March 30, 2017

Presentation Overview

- ❑ Title IX of the Education Amendments of 1972 and related laws
- ❑ Title IX Sexual Violence and Sexual Misconduct Policy
- ❑ Responsible Employee
- ❑ Mandatory Reporting
- ❑ UAB Resolution Procedures
- ❑ Resources
- ❑ Questions



What is Title IX?

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and its implementing regulation, 34 C.F.R. Part 106 is a **comprehensive federal law that prohibits discrimination on the basis of sex in an education program or activity that receives federal funds.**



Title IX

“**No person** in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681; 34 C.F.R. Part 106.



Title IX prohibits discrimination on the basis of sex in:

- Admission
- Preference in admission
- Education programs or activities
- Housing
- Comparable facilities
- Access to classes and schools
- Financial assistance
- Employment assistance to students
- Health and insurance benefits and services
- Marital or parental status
- Athletics
- Textbooks and curricular material



Office of Civil Rights (OCR)

Mission Statement

“To ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.”

“About OCR.” U.S. Department of Education, 15 Oct. 2015. Web. 5 Jan. 2017.



Title IX Enforcement

OCR enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education.



U.S. Department of Education

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION



Clery Act

The Clery Act seeks to provide the campus community with accurate, complete, and timely information about crime and the safety of the campus environment to enable community members to make informed decisions about their safety.

- ▶ Violence Against Women Act (VAWA)
- ▶ Campus Sexual Violence Elimination Act (Campus SAVE Act)



Why are these laws important?

- ▶ Campus Environment
- ▶ Campus safety
- ▶ Education



**1 IN 5
WOMEN** ♀ | ♂ **1 IN 16
MEN**

**ARE SEXUALLY ASSAULTED
WHILE IN COLLEGE**

**IT DOESN'T HAVE
TO BE
THIS WAY**

Sexual Assault
Awareness Month

#SAAM

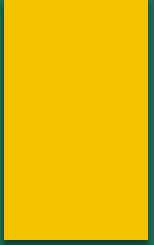


Quick Facts

- ▶ Title IX protects students and employees whether they are on campus or off campus
- ▶ Responsible employees (Faculty, Staff, and Residence Life Staff) are mandatory reporters
- ▶ Student's have the right to report if they have experienced prohibited conduct
- ▶ Reports can be made to the Title IX Office and police department
- ▶ Criminal and University investigations can occur simultaneously
- ▶ Persons involved in the university Title IX process are updated periodically on the status of the complaint

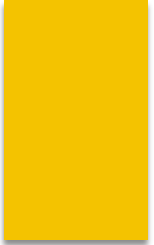
IT'S ON





University of Alabama at Birmingham Title IX Sexual Violence and Sexual Misconduct Policy

EFFECTIVE DATE 11/22/2016



The University of Alabama at Birmingham (the “University” or “UAB”) is committed to providing an environment that respects the dignity of its students, faculty and staff and is free from sexual misconduct which, among other things identified below, includes gender-based assault, harassment, exploitation, dating and domestic violence, stalking, as well as discrimination based on sex, sexual orientation, gender identity, and gender expression, and related retaliation (collectively referred to as “Prohibited Conduct.”)



Prohibited Conduct

The Title IX Sexual Violence and Sexual Misconduct Policy prohibits:

❑ Sexual Misconduct

- ❑ Intimate Partner Violence
- ❑ Domestic Violence
- ❑ Stalking

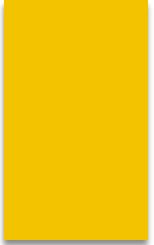

❑ Sexual Assault Offenses

- ❑ Sexual Assault
- ❑ Non-Consensual Sexual Intercourse
- ❑ Non-Consensual Sexual

Contact

- ❑ Sexual Exploitation
- ❑ Fondling
- ❑ Incest
- ❑ Statutory Rape
- ❑ Rape
- ❑ Harassment
- ❑ Sexual Harassment



- 
- ▶ The policy pertains to acts of Prohibited Conduct committed by or against Students, Employees and Third Parties when the conduct occurs:
 - on campus or property owned or controlled by the University;
 - in the context of a University employment or educational program or activity, including, but not limited to, University-sponsored study abroad, research, on-line, or internship programs; or
 - outside the context of a University employment or educational program or activity, but has continuing adverse effects on or creates a hostile environment for students, employees or third-parties while on campus or University property owned or controlled by the University or in any employment or education program or activity.
- 

Sexual Harassment

Any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when it meets certain conditions..



Gender-Based Harassment

Includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when it meets certain conditions.



Harassment Cont.

The certain conditions are when:

(1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs and/or activities or is used as the basis for University decisions affecting the individual (often referred to as "quid pro quo" harassment); or



Harassment Cont.

- ▶ (2) Such conduct creates a hostile environment. A “hostile environment” exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University’s education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective.



Hostile Environment

In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:

- The frequency, nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state;
- Whether the conduct was directed at more than one person;



Hostile Environment Cont.

- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and
- Whether the conduct implicates concerns related to academic freedom or protected speech.



Hostile Environment

- ▶ A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe.
- ▶ The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical.
- ▶ A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment.
- ▶ In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.



Intimate Partner Violence: Dating Violence

Any act of violence or threatened act of violence against a person with whom the individual is or has been involved in a romantic or intimate relationship. This includes threats, assault, property damage, and violence or threat of violence to one's self or to the family members or pets of the romantic or intimate partner when used as a method of coercion, control, punishment, intimidation, or revenge. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.



Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- A. Fear for the person's safety or the safety of others; or
- B. Suffer substantial emotional distress.



Stalking cont.

- i. For the purposes of this definition—
 - A. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - B. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - C. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.



Non-consensual Sexual Intercourse

Any sexual intercourse whether anal, oral, or vaginal (or an attempt to commit the same) however slight, with any object, by a person upon another person, and, without that person's consent or by physical force.

Intercourse is vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).



Non-consensual Sexual Contact

Any intentional sexual touching (or an attempt to commit the same), however slight, with any object, by person upon another person, and, without consent or by physical force.

Sexual touching is any intentional contact with the breasts, buttocks, groin, or genitals; or touching another with any of these body parts; or making another touch you or themselves with or on any of these body parts; or any intentional bodily contact in a sexual manner not involving these body parts.



Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit or to benefit a person other than the one being exploited. Examples of sexual exploitation include, but are not limited to:

- ▶ Exposing one's genitals in non-consensual circumstances or inducing someone to expose their genitals;
- ▶ Exceeding the boundaries of explicit consent, such as allowing friends to hide in a closet to be witness to one's consensual sexual activity;



Sexual Exploitation cont.

- ▶ Engaging in voyeurism (Peeping Tom) or facilitating the voyeurism of others;
- ▶ Non-consensual video or audio recording of sexual activity;
- ▶ Prostituting another student; and/or
- ▶ Knowingly transmitting a sexually transmitted disease/infection or HIV to another individual.



Consent

- ▶ Clear, voluntary permission, which cannot be inferred by the absence of verbal or physical resistance. A lack of consent results from forcible compulsion or incapacity to consent. Forcible compulsion is a physical force or a threat, whether expressed or implied, that places a person in fear of immediate serious physical injury or economic harm to him/herself or a third party.
- ▶ A person is deemed incapable of providing consent if, at the time of the act, the person:
- ▶ is under the age of 16;
- ▶ suffers from a mental impairment, whether temporary or permanent, which renders them incapable of appraising the nature of his or her conduct (e.g., age, disability, or temporary impairment due to drug or alcohol consumption); or

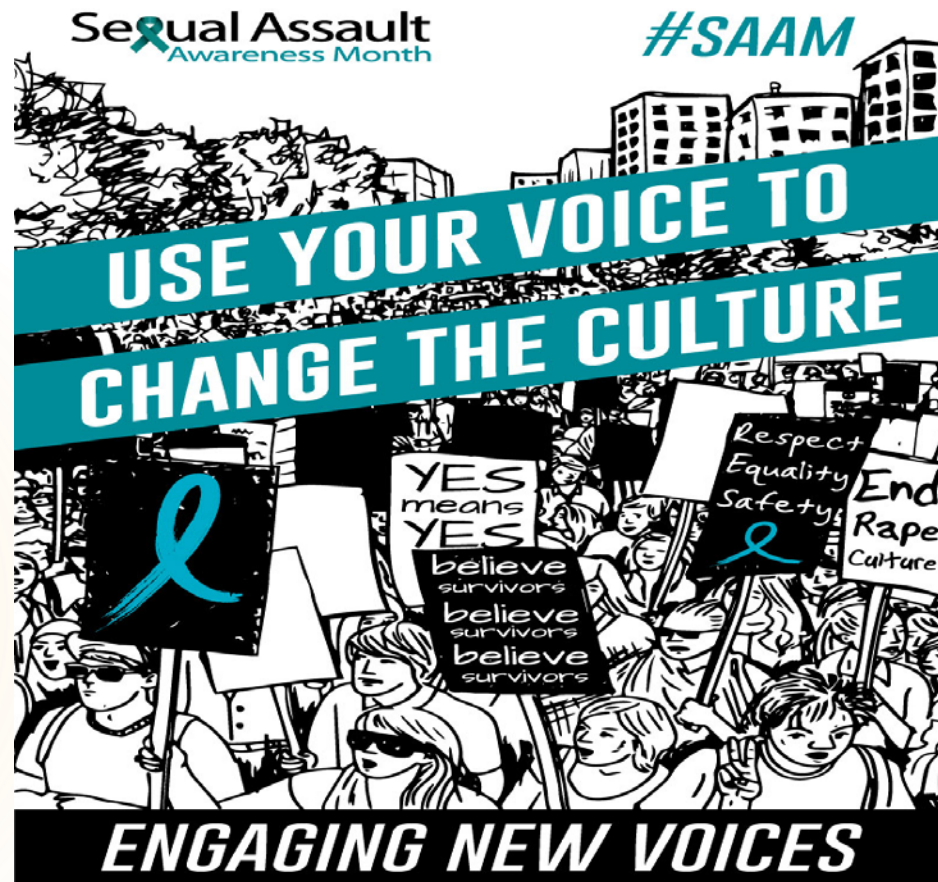


Consent Cont.

- ▶ is physically helpless (e.g., unconscious), asleep, or in a state of shock.
- ▶ Consent can be withdrawn by either party at any point. Consent must be voluntarily given and may not be valid if a person is being subjected to actions or behaviors that elicit emotional or psychological pressure, intimidation, or fear.
- ▶ Consent to engage in one sexual activity, or past agreement to engage in a particular sexual activity, cannot be presumed to constitute consent to engage in a different sexual activity or to engage again in a sexual activity. For purposes of this Policy, the issue is whether the Respondent knew, or should have known, that the activity in question was not consensual. Engaging in sexual activity with a person who you know to be incapacitated, or reasonably should know to be incapacitated, violates this Policy.



Responsible Employees



Responsible Employee

- A University employee who has the authority to address sexual misconduct, who has the duty to report incidents of sexual misconduct, or **who as a member of the University the Complainant could reasonably believe such individual has such authority or duty.**



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- In addition, the following who, in the course of employment, receive a report of Prohibited Conduct from any other person affiliated with the University shall notify the Title IX Coordinator or designee:
 - UAB Police
 - UAB Human Resources and Human Resources Partners
 - Managers and Supervisors, including Deans, Department Chairs, and Directors
 - Faculty
 - Resident Advisers

Mandatory Reporting

A world-renowned research university and medical center —
a first choice for education and healthcare

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Title IX

The University of Alabama at Birmingham Department of Student Experience oversees the University's compliance with Title IX of the Education Amendments of 1972. The Office works with students, University administration, departments, faculty, staff, campus police, and other support services to ensure that University policies and programs foster a campus community free of illegal gender discrimination and from all forms of violence, including sexual misconduct, examples of which can include acts of sexual assault, domestic violence, dating violence, and stalking.

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Helpful Resources

- [Title IX Sexual Violence and Sexual Misconduct Policy](#)
- [A Guide for Victims of Sexual Assault](#)
- [Title IX Resources & Referral Options](#)
- [Harassment Policy](#)
- [Sexual Harassment Policy](#)
- [Sexual Misconduct Policy Flowchart](#)
- [Non-Academic Student Conduct](#)
- [Consensual Relationship Policy](#)

[Report an Incident of Gender-Based Misconduct](#) [Title IX Responsible Employee Checklist](#)



Reporting Cont.

▶ Police Department

- Emergency: (205) 934-3535 or 911
- Main Dispatch: (205) 934-4434
- Physical Address:
Police Headquarters Building
1117 14th Street South

▶ Title IX Coordinator

- (205) 996-1340
- Hill Student Center Suite 303
- <https://www.uab.edu/titleix/>

▶ Responsible Employees

- Faculty
- Advisors
- Staff Members

▶ Residential Assistants

▶ Victim Advocate



CONFIDENTIALITY VS. PRIVACY

Confidentiality

- ▶ Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under Alabama law.
- ▶ The University has designated individuals who have the ability to have privileged communications as “Confidential Employees.”



Confidentiality

- ▶ When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.



Privacy

- ▶ Privacy means that information related to a report of Prohibited Conduct will be shared with a limited circle of University Employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All Employees who are involved in the University’s response to reports of Prohibited Conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

Privacy Cont.

- ▶ The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the University’s FERPA Policy. The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“HIPAA”), excepting health records protected by FERPA.



CASE STUDY

UAB THE UNIVERSITY OF
ALABAMA AT BIRMINGHAM

Knowledge that will change your world

Scenario

- ▶ Student confides in you about several comments and actions that have been made toward him/her by a professor. The student provides the name of the professor. (This professor is your friend and colleague).



How Would You Respond?



What Should You Say?

- ▶ “You have the right to report to the University Police, local law enforcement, or State Police or choose not to report. You also have the right to report the incident, and receive assistance and resources from the University”



What's Next For The Complainant?

- ❑ Choose no action
- ❑ Victim Advocate
- ❑ Criminal Case and University Case
 - ❑ Participate in the investigation
 - ❑ Interim measures
- ❑ Confidentiality and Privacy



Procedures for the Resolution of Sexual Misconduct Complaints

Rights of The Complainant and Respondent

- ▶ To be treated with respect, dignity, and sensitivity.
- ▶ To receive appropriate support from the University.
- ▶ Privacy to the extent possible, consistent with applicable law and University policy.
- ▶ Information about the University's Title IX Policy.
- ▶ The presence of an Adviser throughout the process.



Cont.

- ▶ To participate or to decline to participate in the investigation or complaint resolution process. However, a decision not to participate in the process either in whole or in part will not prevent the University from proceeding with the information available.
- ▶ A prompt and thorough investigation of the allegations.
- ▶ Adequate time to review documents in the Title IX Coordinator's report following the investigation.
- ▶ To appeal the investigation decision or any sanctions imposed.



Cont.

- ▶ To challenge a Hearing Panel member(s) for a possible conflict of interest.
- ▶ To refrain from making self-incriminating statements. A resolution, however, will be determined with the information made available by the parties.
- ▶ To appeal the decision made by the Hearing Panel to the VP for Student Affairs.
- ▶ Notification, in writing, of the case resolution, including the outcome of any appeals.
- ▶ For the Complainant, to report the incident to law enforcement (including the UABPD or with the police department in the jurisdiction in which the sexual misconduct occurred) at any time.



Investigation and Sanctions Procedures

- ▶ Time Frame for Resolution
- ▶ Initial Assessment
- ▶ Voluntary Resolution
- ▶ Investigation
- ▶ Outcome Conference
- ▶ Adjudication Options
- ▶ Imposition of Sanctions





Pregnancy and Parenting

Pregnancy and Parenting

Title IX prohibits discrimination on the basis of sex — including pregnancy, parenting and all related conditions — in education and in programs and activities that receive federal funding. If you are a pregnant or parenting student, you have the right to stay in school so you can meet your education and career goals. Below are some frequently asked questions from students in postsecondary schools regarding their Title IX rights.



IT'S ON



Questions

www.uab.edu/titleix

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