Policy on Mandatory Reporting Requirements for Sexual Harassment and Sexual Misconduct

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General Description

Policy Summary:

This policy outlines Trinity University employees' obligations as responsible employees to report sexual harassment, including sexual misconduct, to the University's Title IX Coordinator, as well as reporting requirements and consequences under Texas state law.

Purpose:

The purpose of the policy is to ensure that the Trinity University community understands reporting requirements and are fully informed of their obligations under Texas state law.

Scope:

This policy pertains to university employees' reporting obligations related to sexual harassment and sexual misconduct.

Exceptions:

The Texas state law for mandatory reporting does not apply to student employees. However, even though they are not subject to the Texas state law for mandatory reporting and associated penalties, because of their level of responsibility, Residential Life student staff members are still required by University policy to send reports to the Title IX Coordinator.

An employee is not required to report an incident in which they are the victim.

Employees are not required to report information shared during an organized, public awareness event sponsored by the University or a student organization, such as "Take Back the Night" or similar events.

Responsible Department:

Human Resources

Policy Content

Responsible Employees

Except for employees designated as "confidential," all non-student employees and Residential Life student staff are designated as responsible employees and are required to report sexual harassment, including all forms of sexual misconduct, to the Title IX Coordinator. Sexual misconduct includes: sexual harassment, sexual assault (including rape, non-consensual sodomy, sexual assault with an object, fondling, incest, and statutory rape), intimate partner violence (including dating violence and domestic violence), stalking, sexual exploitation, and retaliation. Employees designated as "confidential" include: all staff in Counseling Services, all staff in Health Services, full-time Athletic Trainers, and the University Chaplain.

Reports must be submitted to the Title IX Coordinator via phone, email, in person, or online:

Dr. Michaela Postell
Title IX Coordinator | Director of Title IX Compliance
One Trinity Place
Northrup Hall 210J
210-999-7835
mpostell@trinity.edu | eos@trinity.edu

As provided below, Texas law imposes specific reporting requirements and consequences for failure to report, including for individuals designated as "confidential." In addition, employees who are Campus Security Authorities, as defined in the Clery Act, also have the obligation to report crime to Trinity University Police Department. Additional information is available at: https://www.trinity.edu/directory/departments-programs/university-police/crime-data/campus-security-authorities.

Texas Law

All staff Reporting Obligations

Texas law requires Trinity University employees to promptly report information to the Title IX Coordinator when the employee:

1. Witnesses or receives information in the course and scope of employment;
2. About the occurrence of an incident that the employee reasonably believes is sexual harassment, sexual assault, dating violence, or stalking; and

3. When the incident was committed by or against someone who was a Trinity University student or employee at the time of the incident.

Employees designated as “confidential” (all staff in Counseling Services, all staff in Health Services, full-time Athletic Trainers, and all staff in the University Chaplain's office) are required to report only the type of incident to the Title IX Coordinator. All other employees must make a report to the Title IX Coordinator that includes all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, the desired action or outcome relating to the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.

Notwithstanding the foregoing, employees who receive information regarding an incident under circumstances that render the employee’s communications confidential or privileged by law are required to report only the type of incident to the Title IX Coordinator.

Retaliation Prohibition

The University may not discipline or otherwise discriminate against an employee who in good faith makes a report as required by this policy or who cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the employee as required by this policy.

This prohibition against retaliation does not apply to an employee who reports an incident described by this policy perpetrated by the employee; or cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee perpetrated an incident described by this policy.

Immunities

A person acting in good faith who reports or assists in the investigation of a report of an incident described by this policy or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident:

1. Is immune from civil liability, and from criminal liability for offenses punishable by fine only, that might otherwise be incurred or imposed as a result of those actions; and
2. May not be subjected to any disciplinary action by the University where the person is enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident (e.g., relating to use of alcohol or drugs) unless the violation is one for which suspension or expulsion from the institution is a possible punishment.

These immunities do not apply to a person who perpetrates or assists in the perpetration of the incident reported under this policy.

Confidentiality

Unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under this policy is confidential and may be disclosed only to:

1. Persons employed by or under contract with the University who are necessary to conduct an investigation of the report or any related hearings;
2. A law enforcement officer as necessary to conduct a criminal investigation of the report;
3. The person or persons alleged to have perpetrated the incident, to the extent required by other law; or
4. Potential witnesses to the incident as necessary to conduct an investigation of the report.

The University is required to issue reports containing information about reports made under this policy, in accordance with the law, but those reports will not identify any person.

Performance Evaluation

Consequences of Policy Violation:

Texas law provides:

1. An employee who the University determines, in accordance with the University's disciplinary procedure, to have knowingly failed to make a required report or to have knowingly made a false report with the intent to harm or deceive shall be terminated from employment.
2. An employee who knowingly failed to make a required report or who knowingly made a false report with the intent to harm or deceive commits the criminal offense of a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the employee intended to conceal the incident that the employee was required to report.

Terms & Definitions

Terms and Definitions:

Term:	Definition:
For purposes of Texas law mandatory reporting responsibilities:	"Sexual harassment" means unwelcome, sex-based verbal or physical conduct that: (A) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or (B) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution. “Sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program and included in Appendix A to Subpart D of 34 CFR Part 668, as follows: (A) “Rape” means the 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, without the consent of the victim. (B) “Fondling” means the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. (C) “Incest” means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. (D) “Statutory Rape” means sexual intercourse with a person who is under the statutory age of consent. “Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. (A) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. (B) For the purposes of this definition—

Term:	Definition:
	(1) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (2) Dating violence does not include acts covered under the definition of domestic violence. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. 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.

Related Documents

Related Documents:

Document Type:	Document Name:	Document Number:
Policy	Trinity University Sex Discrimination, Sexual Harassment and Sexual Misconduct Policy and Procedures	PRES-0004
Policy	Anti-Discrimination and Harassment Policy	PRES-0003

Related Content:

Texas Law - Subchapter E-2 of Chapter 51 of the Texas Education Code

Revision Management

Revision History Log:

Revision #:	Date:	Recorded By:
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v2.0	4/20/2022 8:34 PM	Holly Warfel
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Vice President Approval:

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Claire Smith	Assistant Secretary to the Board of Trustees