

## **Title IX and Sexual Misconduct Overview**

The purpose of this document is to provide a brief outline of some valuable information about the Title IX and Sexual Misconduct processes at Texas Tech University. It does not answer all questions and/or provide all the information. For questions, contact the Office for Student Civil Rights and Sexual Misconduct (SCRSM) or the Title IX Coordinator.

### **Terms used:**

*Title IX of the Education Amendments Act of 1972:* A federal law that states: “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.”

*Complainant:* The Complainant in the Sexual Misconduct process refers to the student against whom a possible violation was committed.

*Respondent:* The Respondent in the Sexual Misconduct process is the student who is responding to accusations of wrongdoing.

*Witness:* Any person deemed by the Investigator to have valuable information regarding the accusation of wrongdoing by another student. Both the Respondent and Complainant can suggest and request a specific witness be interviewed by the Investigator.

*Investigator:* The trained University official assigned to conduct a thorough, reliable, and equitable investigation into a reported incident. The Investigator is a neutral party in the investigation process. The Investigator does *not* determine a finding of responsibility for potential violations related to Title IX and/or Sexual Misconduct.

*Title IX Coordinator:* The University official in charge of oversight of the Title IX/ Sexual Misconduct processes and procedures for the University. Dr. Kimberly Simón is the Title IX Coordinator for Texas Tech University. She may be reached at 806.834.1949 or [kimberly.simon@ttu.edu](mailto:kimberly.simon@ttu.edu).

*Case Manager:* The University official who assists students involved in the Sexual Misconduct process. The Case Manager coordinates Supportive Measures, and can answer questions about the process, University policies and procedures, and all available options.

*Program Manager – Title IX Training & Outreach:* The University official who assists with training and outreach for SCRSM. This role serves as a Case Management Team member and the Hearing Coordinator.

*CARE Coordinator:* A CARE (Campus Advocacy, Response and Education) Coordinator is a graduate student who connects students with resources after an incident is reported to the SCRSM

office. Coordinators can act as a peer-mentor in the process, but do not provide legal guidance or serve as Advisors. This role serves as a member of the Case Management Team.

***Mandatory Reporter:*** A mandatory reporter (“Responsible Employee”) is someone who is required to report a Sexual Misconduct incident. A mandatory reporter must report all the details that they know, which includes the names of parties.

- ***Exempt from mandatory reporting:*** Professional counselors, medical providers, and associated staff ***when working in their prescribed role.***

***Formal Complaint:*** A document submitted and signed (by hand or electronically) by the Complainant which alleges misconduct by a student, visitor, or employee of Texas Tech. The filing of a Formal Complaint requires the SCRSM to notify the Respondent of the allegations.

### **Texas Tech Policies:**

Texas Tech has two separate policies related to Sexual Misconduct. One involves matters which fall under Title IX Sexual Misconduct and the other in which matters are determined to be Non-Title IX Sexual Misconduct. You may review both policies via the [Code of Student Conduct](#) or by reviewing [TTU OP 40.03](#) or TTU System Regulations [07.06A](#) or [07.06B](#).

### **Law Enforcement Involvement vs Title IX/Sexual Misconduct process:**

The Title IX/Sexual Misconduct process is an administrative process, not a criminal process. SCRSM does not contact law enforcement to report incidents. However, if a student would like to pursue both avenues, the SCRSM team will work to coordinate with Law Enforcement, when possible, to avoid students having to repeat their statements to multiple parties. Upon request from the Complainant, the SCRSM will help them contact the appropriate Law Enforcement office.

The standard of proof used to determine if a student is responsible for a *Code of Student Conduct* violation is ***preponderance of the evidence***. This is commonly referred to as “more likely than not” that a violation has occurred (or 50.1% vs 49.9%).

The law enforcement process is handled through local law enforcement authorities including Texas Tech Police, Lubbock Police, and/or the Lubbock County Sheriff’s office. Typically, cases are investigated by members of those departments and the case is referred to a local prosecutor who will decide if criminal charges are appropriate. The standard of proof for a criminal conviction is ***beyond a reasonable doubt***, which is a higher standard of proof than preponderance of the evidence.

Cases may go through either the criminal process, the administrative process, or both. It is up to the student making the complaint to decide which, if any, process to use.

### **Protective Orders:**

A Protective Order is a civil order, applied for and issued by a local judge. If violated, the offending party can be arrested. SCRSM cannot issue a Protective Order. The Texas Tech Police can enforce civil and criminal protective orders on the Texas Tech Campus. Parties wishing to discuss this option can contact the Lubbock County District Attorney’s Office at 806.775.1100, the Legal Aid Society of Lubbock at 806.762.2325 and/or visit their website at

<https://www.lubbocklegalaid.org/>. Services can also be provided by Voice of Hope at 806.763.3232 or at <https://www.voiceofhopelubbock.org/contact/> or Lubbock Victim Assistance Services at 806.763.3131 or <https://www.lubbockvictims.org/>.

### **No Contact Order:**

When an initial inquiry indicates persistent and potentially escalating conflict between members of the University Community, a No Contact Order may be issued as a remedial, non-punitive deterrent to further conflict or situational complication. A No Contact Order is an administrative Supportive Measure which, if issued by the University, is good for one year or until one of the involved parties leaves the University, whichever comes first. A No Contact Order can be reissued at the request of one of the involved students. The directive limits the parties' contact with each other. A violation of a No Contact Order can lead to disciplinary action against the offending party.

### **Process of Filing a Formal Complaint:**

A student, mandatory reporter, or third party can file a report concerning any incident involving sexual assault, domestic violence, dating violence, sexual harassment, stalking or any other form of civil rights violation. SCRSM will then reach out to the Complainant to schedule a meeting to review options and services which are available. Should a student wish to file a Formal Complaint, they will be provided with the information to do so at any time. Once a Formal Complaint is filed, the Respondent will receive notification of the Complaint by the SCRSM office.

When a Formal Complaint is received, SCRSM will evaluate the complaint to assure the University has proper jurisdiction and any dismissal criteria described in Section D of the Code of Student Conduct. If a Formal Complaint is dismissed, either party can appeal according to the procedures outlined in the Code.

### **Sharing Information:**

Reports filed with SCRSM are private and will not be shared with other students, faculty, non-SCRSM staff, or **parents** without the student's express consent. SCRSM staff will also not share information with a police department unless requested by the student or comply with a lawfully issued subpoena.

General information only (no identifying information) may be shared, as needed, as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Statistics Act (commonly referred to as the Clery Act). Depending on the urgency of the report and campus safety, a Timely Warning Notification may need to be sent to the campus community, but a SCRSM staff member will be in contact with involved parties prior to it being distributed should that be the situation.

### **Advisor of Choice:**

Each student is encouraged to have an Advisor of Choice. PLEASE NOTE: only ONE advisor is permitted for each student during a hearing. Some vital information to consider when selecting an Advisor of Choice:

- An Attorney or Advocate may serve as an advisor. It is not required that any student have an attorney to participate in this process.

- Advisors may not represent the student, answer questions on behalf of a student, or otherwise interject themselves. Advisors must sign a document outlining expectations of their participation in the process. The SCRSM will not accept evidence from an Advisor. ALL evidence should come directly from the student.
- Advisors can attend a University Advisor of Choice Training. Individual training is available with an SCRSM staff member.
- Advisors should be supportive and concerned about their student's best interests.
- Advisors should be available and accessible - responsive to calls/emails, be able to attend meetings and the Hearing.
- Once an Advisor is involved in a case, they will be copied on all correspondence to the student.
- In Non-Title IX Sexual Misconduct cases, a witness, anyone who may have a conflict of interest, or anyone who may have any participatory role in the process may not be allowed to serve as an Advisor. Students currently separated from the University due to a disciplinary process may be excluded from serving as advisors.
- In a Title IX Sexual Misconduct hearing, the Advisor will conduct cross examination. All students retain the right to select their own advisor, and this advisor may be an attorney. If the Complainant or Respondent does not have an advisor, the University will provide one. For University provided Advisors, that Advisor does not provide legal guidance.
- An Advisor that does not comply with the guidelines outlined in the Advisor Expectations document may be removed from their role as Advisor.

### **Evidence:**

Each student will be provided the opportunity to submit supporting evidence. All parties should preserve any evidence or material they have related to the incident. Evidence which is maintained on electronic devices should be protected from deletion or loss by copying them to other devices, printing, or submitting them to law enforcement and/or the SCRSM. The integrity of all forms of evidence should be maintained and handled with care so as not to compromise its usefulness. Examples of evidence include, but are not limited to:

- Messages shared between the involved parties or others (phone calls, voicemails, text messages, Snapchat messages, Instagram messages or messages from any other application)
- Pictures/videos
  - Including photos of any injuries
- Any physical evidence a student feels is relevant
- Copies of medical paperwork if applicable
- Witnesses - Each student will be asked to provide the names of possible witnesses to interview who can provide useful information as to the alleged incident or surrounding events.

### **Options available to the Complainant:**

- A Complainant may report an incident to only seek services and Supportive Measures. This will be facilitated by the SCRSM Case Management Team. The Complainant is never required to provide details about the incident to receive support from the University.
- A Complainant may submit a statement to an Investigator and request no further action be taken against the Respondent. In most cases, the University can abide by this request. If the University determines that a danger exists to the larger campus community, the University will conduct an investigation after the Title IX Coordinator files a Formal Complaint. The Complainant may still determine their level of involvement with the investigation.
- A Complainant may submit a statement and request that a No Contact Order be issued. If this is the case, the Respondent will be contacted and notified of the nature of the complaint and who is making the allegations. SCRSM will then issue a No Contact Order if determined to be appropriate.
- After filing a Formal Complaint, the Complainant may request that an Informal Resolution be sought to resolve the matter. Both parties must sign a document acknowledging their voluntary willingness to participate in this process. Either party may withdraw from the process at any time and request a formal investigation be started or continued.
- After the filing of a Formal Complaint, the Complainant may ask that a formal investigation be conducted. Information from the investigation is compiled in a report which is used during the adjudication process to determine if a Respondent is responsible or not responsible for any wrongdoing.
- A Complainant may request assistance with filing a report with the appropriate law enforcement office. This can be done in any combination with the University options previously described.
- A Complainant may request assistance in filing a report with another University if the Respondent is a student at another school. SCRSM will make all efforts to help coordinate this process and will still be able to provide Supportive Measures to the Complainant.
- After the filing of a Formal Complaint, the Complainant may request in writing to withdraw the Formal Complaint or that some of the allegations be withdrawn.
- Other options that are available can be discussed and reviewed with the student during a meeting with a staff member of SCRSM or the Title IX Coordinator.

### **Informal Resolution:**

In almost all matters governed by the policies related to sexual misconduct, the parties (usually the Complainant and Respondent) may mutually agree to attempt to resolve the matter prior to the conclusion of the conduct process through the Informal Resolution process. All parties involved must sign an acknowledgement of the Informal Resolution process and their willingness to participate in the process. The procedures utilized in the Informal Resolution process must be agreed upon by the parties with concurrence from the Title IX Coordinator or designee.

This process may take any of the forms commonly used for conflict resolution such as, but not limited to, non-binding arbitration, mediation, or restorative justice. The parties must mutually

agree in writing to all aspects of any resolution reached through the Informal Resolution process, including any restrictions, sanctions, or conditions as may be agreed upon by the parties with concurrence from the Title IX Coordinator or designee. Any such resolution will be binding and final with no opportunity to appeal and the matter will not be adjudicated in any other avenue. Either party may withdraw from the Informal Resolution process at any time prior to final resolution, at which time the matter will proceed through the Grievance Process as set forth in the *Code of Student Conduct*. Informal Resolution agreements will be maintained in accordance with university policies.

### **Referral Meeting:**

A University official may request a meeting with a student to discuss a referral made to the SCRSM or other administrative department when the referral may not be deemed a violation of the Code of Student Conduct, but when the Title IX Coordinator or designee determines the referral warrants a discussion. The purpose of the discussion is to clarify the concerns of the involved parties, to help all involved parties, and to explain to the Respondent that repeated referrals may warrant an Investigation.

### **Information for Respondents:**

A Respondent will be notified in writing of the allegations being made and the other parties involved in the complaint. The Respondent will be allowed at least 3 days to prepare to meet with an Investigator. All campus resources available to a Complainant are also available to the Respondent. A Respondent, like a Complainant, is not required to participate in the investigation process, but all students are expected to cooperate with the University Grievance Process. If a student does not participate in the investigation process, the matter may still move forward. If a student (either the Respondent or Complainant) does not participate in the investigation process, they will not be allowed to present new information during the hearing. If a student provides limited information, they will only be allowed to speak about the information they provided. A Respondent may offer to resolve the matter through an Informal Resolution. Respondents will be provided Supportive Measures in the same vein as Complainants. **Respondents will be presumed NOT RESPONSIBLE until an official responsible finding has been rendered after the completion of the entire Grievance Process.**

### **Supportive Measures:**

Resources will be available to Complainants, Respondents, and Witnesses as appropriate. All parties will meet with a member of the SCRSM Case Management Team to discuss available Supportive Measures, including residence hall changes, parking assignment adjustment, counseling, and assistance in academic areas. The Case Management Team can provide additional areas of assistance, as necessary.

### **Amnesty:**

The University will not take any disciplinary action against a student who in good faith reports being the victim of, or witness to, an incident of sexual misconduct for a violation of the *Code of*

*Student Conduct* occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the Grievance Process regarding the incident.

Amnesty will be extended to the Complainant, Respondent, and witnesses who provide statements during an investigation and disclose their own personal drug and/or alcohol use. Amnesty will not be extended in situations where substances were used to facilitate sexual misconduct. Abuse of amnesty provisions can result in a violation of the *Code of Student Conduct*. The *Code of Student Conduct* amnesty provisions do not influence criminal proceedings or charges.

The University may provide educational options to students to address any concerning behavior as part of the afforded amnesty or in lieu of conduct proceedings. Amnesty does not preclude students from being required to meet with university staff and to participate in conditions such as counseling, alcohol assessments, and other requirements.

SCRSM may assist with questions related to amnesty provisions, and the final determination regarding amnesty in all Sexual Misconduct cases will be made by the Title IX Coordinator or designee.

### ***Code of Student Conduct Process:***

There are differences in the hearing processes depending on if a matter falls under the Title IX Sexual Misconduct process or the Non-Title IX Sexual Misconduct process. Please see TTU [OP 40.03](#) or TTU System Regulations [07.06A](#) or [07.06B](#).

A staff member of the SCRSM office will be available to explain those differences and each party is encouraged to review the policies already referred to in this document.

Types of hearings:

- **Administrative Hearing:** In this process, an Administrative Hearing Officer adjudicates the allegations of violations of the *Code of Student Conduct*.
- **Panel Hearing:** In this process, a three-member panel of two trained University staff members and a Hearing Officer contracted by the University will serve as the decision makers of the allegations of violations of the *Code of Student Conduct*. Findings of “responsible” or “not responsible” are determined by a majority of the panel members.
- **Sanction-Only Hearing:** In this process, a student accepts responsibility for the allegations issued in the Investigative Report. A student may request either an Administrative Hearing or Panel Hearing that will determine the sanctions in the matter. The student can make the request to the Hearing Coordinator or their Investigator.
- The Title IX Coordinator will make the determination on which hearing type is appropriate.

During a Hearing, students can provide an opening and closing statement. If there is a “responsible” finding, students may then provide impact statements.

- **Opening Statement:** An introductory statement made by a student that gives them the opportunity to provide an overview of the case and to explain the anticipated “proof” that is presented in the Investigative Report. An opening statement is to apprise the adjudicator(s) of the issues in question and summarize the evidence in the report.

- Closing Statement: A closing statement should summarize evidence that was presented and how the evidence supports a decision for or against a responsible finding.
- Impact Statement: Impact statements may be given by both parties. An impact statement should outline how the incident has affected a student. Impact statements will only be allowed after a responsible finding has been made.

## Sanctions

The University has posted a Sanctions Matrix on the Office of Student Conduct website. This document gives an overview of the outcomes considered by Administrative Hearing Officers and Panel Hearing Members when determining Sanctions.

### [Sanctions Matrix](#)

#### Appeal:

Both the Complainant and Respondent may appeal the decision maker's findings. The grounds and rules for appeal are set out in the applicable policies noted previously in this document.

If one party files an appeal, the other will have a chance to respond. Implementation of the disciplinary Sanction(s) will begin when the time to file an appeal has expired or when the appeal decision has been sent to the parties.

## Frequently Asked Questions

### I missed class or an assignment/exam due to my situation and I do not know what to do?

The Title IX Case Managers, Meredith Holden ([meredith.holden@ttu.edu](mailto:meredith.holden@ttu.edu)) and Denise Tijerina ([denise.tijerina@ttu.edu](mailto:denise.tijerina@ttu.edu)) can help address academic concerns. Call or email Meredith or Denise to discuss options.

### I found out that I am pregnant. Is there support for pregnant or parenting students?

Yes, our office supports students who are pregnant or parenting. Please go to <https://www.depts.ttu.edu/titleix/PregnacnyandParenting/index.php> for more information or email [alfaris@ttu.edu](mailto:alfaris@ttu.edu) for assistance.

### I am scared to communicate my situation with my professors, can you help me with this?

Yes! Contact Meredith or Denise and they can send out a notice with your permission and as appropriate.

### I need to have a Forensic (SANE) Exam. Where can I go for that?

Within 96 hours after an assault, SANE exams are provided free of charge at local hospitals, though not on the TTU Campus. These medical facilities can also provide any other needed emergency care or medical assistance at that time.

### **University Medical Center**

602 Indiana Ave, Lubbock, TX 79415 | 806. 775.8200

### **Covenant Emergency Room**

3615 19<sup>th</sup> St, Lubbock, TX, 79415 | 806. 725.4288

After my ER visit, I am supposed to follow up with a primary care provider (PCP) and I do not have a local PCP.

You can make an appointment with **Student Health Services**. They support students with medical, mental health, and any follow up emergency room or hospitalization care. You may call 806-743-2848 or visit [www.ttuhs.edu/studenthealth](http://www.ttuhs.edu/studenthealth)

I need to visit with a counselor or therapist.

### **Student Counseling Center**

Supports students with individual and group therapy. Licensed mental health professionals. Walk-in clinic M-F 12:30-3:30. These services are paid for through your tuition. You may call 806.742.3674 or visit <http://www.depts.ttu.edu/scc/>

### **TTU Family Therapy Clinic**

You may call 806.742.3074 and leave a detailed message with your name, R number, explain your interest in visiting a therapist as soon as possible, and a call back number and someone will call you back. There is a \$25 intake fee and a \$10 fee per session for students.

### **TTU Psychology Clinic**

You may call 806.743.3737 and someone will gather your information over the phone. Thereafter, you will be scheduled with a counselor for individual counseling. There is a \$10 fee per session for students.

### **Voice of Hope**

You may call 806. 763.7273 or visit [www.voiceofhopelubbock.org](http://www.voiceofhopelubbock.org). This agency is off-campus and provides counseling, guidance, and services for victims free of charge.

I do not want my family, parents, or friends to know I am going to counseling. Will Texas Tech University share this information with anyone if I seek any type of resource?

No, the services of counseling and medical professionals are confidential. You must give permission to disclose any information and to whom. Please note that certain laboratory tests and procedures may be shown on your student bill. You can ask Student Health for clarification prior to any procedure.

**I do not feel safe in my home or residence hall. Is there anything that I can do?**

### **University Student Housing**

Supports students living in Residence Halls with a variety of assistance for success. If you feel you need to change rooms or halls, this could be an option. You may call 806.742.2661 or visit [www.housing.ttu.edu](http://www.housing.ttu.edu). For more urgent requests, or if there is an issue with moving halls, please contact Meredith or Denise for assistance.

### **Off-Campus Housing**

It is recommended you visit your apartment manager requesting a room change. If you need to review options on any contract cancellation, visit TTU **Student Legal Services** by calling 806.742.3289 or visit <https://www.depts.ttu.edu/sls/>. You will not be charged a fee for Student Legal Services as you pay for this service through your tuition.

### **Women's Protective Services**

Women's Protective Services is available 24/7/365 for any student who is experiencing interpersonal violence, regardless of gender/gender identity. You can call 806. 747. 6491 for assistance.

**Do I have to report my situation to the police?**

No, this is entirely up to you. The process with Texas Tech University is an administrative process which is separate from the criminal process.

**I am scared to walk on campus, is there anything I can do?**

Here are some safety tips: <http://www.depts.ttu.edu/tttd/crime-prevention/tips.php>. Contact Meredith or Denise to discuss possible options regarding safer transportation options.

**I am in the same class as the other party. Can anything be done about this so I can still attend class comfortably?**

Texas law allows Complainants or Respondents enrolled in the same course to drop the course with no academic penalty. Other options are available as well. Contact Meredith or Denise to discuss what works best for your situation.

**I am in the same student organization as the other party, do I have to quit my organization?**

No, unless there is some sort of sanction or University directive that is specifically issued. You can discuss options with Meredith or Denise.

This situation has been stressful. I do not feel I can complete the semester, are there any options so that I do not lose my semester or get failing grades?

We want to encourage you to attend class and focus on your academics. Meetings with investigators can be scheduled outside of your class time.

If you need to explore additional academic options, Meredith or Denise can review the possibilities specific to your situation.

Useful links:

[Office of Student Conduct](#)

[Texas Tech Title IX website](#)

[Policies & Procedures](#)

[Supportive Measures](#)

[The Learning Center](#)

[Texas Tech Student Counseling Center](#)