



FREQUENTLY ASKED QUESTIONS

Employees' Obligation to Report Sexual Misconduct to the Campus Title IX Office

Related Policy: Sexual Misconduct Policy

What is the scope of employees' reporting obligation?

- 1. Do I have a reporting obligation if a student or employee disclosed to me that they experienced sexual harassment, sexual assault, stalking, relationship violence or related retaliation (collectively, "sexual misconduct") and I know they went to the police and is working with the victim-survivor advocacy or another personal support resource?**

Yes. Employees are required to report allegations of prohibited conduct to the campus Title IX office, even if the police are involved (a police investigation is separate from the campus Title IX office investigation) and even if the complainant is known to be receiving personal support.

- 2. Do I have a reporting obligation if a student disclosed to me that they experienced prohibited conduct by a stranger while they were studying abroad on a New Mexico Tech program?**

Yes. The study abroad program is considered a University program. Although the University may not be able to investigate the allegation, the disclosure will permit the University to fulfill its obligations to provide the complainant with information about resources available to them. Also, the disclosure may permit the University to take actions such as conducting a review of policies and procedures, reviewing safety measures, or providing additional training or education.

- 3. Do I have a reporting obligation if an employee disclosed to me only that they were sexually assaulted?**

Yes. Employees are required to report allegations of sexual assault to the campus Title IX office if it is possible that the sexual assault: (1) occurred on University property; (2) occurred during a University employment or education program or activity; (3) was directed at a current University member while they were affiliated with the University; or (4) was committed by a current University member. In most cases, employees will need to report to the campus Title IX office because they will have insufficient information about a particular allegation to know that it does not need to be reported.

- 4. Do I have a reporting obligation if a student disclosed to me that they were sexually assaulted in the past (before coming to New Mexico Tech) by someone who is not a University member?**

No. In this situation you do not need to report the prior assault to the campus Title IX office. You are strongly encouraged to provide this student with information about resources for counseling and advocacy services. The campus Title IX office can provide you with this information.

- 5. Do I have a reporting obligation if I learn about prohibited conduct in my personal capacity and not as an employee?**

No. If a family member, friend or other person discloses prohibited conduct to you outside of the employment context, you are not required to report that allegation to the campus Title IX office. If you are unclear about whether prohibited conduct was disclosed to you in the context of your employment, please contact the campus Title IX office for guidance.

If the person disclosing prohibited conduct to you is a University member, you are strongly encouraged to provide them with information about resources for counseling, advocacy services and investigations. The campus Title IX office can provide you with this information.

- 6. I am a graduate student who is also employed as research assistant. While working in the lab, another research assistant (who is also a member of my cohort and a friend) shares that they were sexually assaulted by another student last weekend. Do I have a reporting obligation here?**

Probably not. If the complainant shared this information as a friend, and you are not a supervisor, you do not need to report this information to the campus Title IX office, even if you learned about it during work hours. If you are unclear about whether you need to report prohibited conduct that was disclosed to you, please contact the campus Title IX office for guidance.

If the person disclosing prohibited conduct to you is a University member, you are strongly encouraged to provide them with information about resources for counseling, advocacy services and investigations. The campus Title IX office can provide you with this information.

- 7. Do I have a reporting obligation if I observe bruises on a student and I suspect the student is being physically abused, but the student has not shared any information with me about the cause of the bruises?**

No, unless a third party informs you that the student has alleged that relationship violence occurred. You are strongly encouraged to ask if the student is okay, and to provide the student with information about resources for counseling, advocacy services and investigations. The campus Title IX office can provide you with this information.

- 8. Do I have a reporting obligation if a student discloses prohibited conduct to me in a written assignment?**

Yes. Employees are required to report allegations of prohibited conduct to the campus Title IX office that they learn about in the context of their employment, regardless of how they learn about these allegations.

- 9. I conduct research in the area of prohibited conduct. Will these reporting obligations affect my research and ability to promise confidentiality to research subjects?**

Disclosures made by research subjects in the context of a research project do not trigger reporting obligations. If you believe that a research project may elicit personal accounts of prohibited conduct, you should make clear to research participants in advance that disclosures made during the research project are not considered notice to the University. You should provide research participants with information about resources for counseling, advocacy services and investigations. The campus Title IX office can provide you with this information.

- 10. If prohibited conduct occurs off campus, does it need to be reported to the campus Title IX office?**

Yes, if either the respondent or complainant is a current University member or if the prohibited conduct may have occurred in the context of a University program or activity. In most cases, employees will need to report to the campus Title IX office because they will have insufficient information about a particular allegation to know that it does not need to be reported.

- 11. A student informed me about being in a past abusive relationship with another University student but assured me that there is no continuing abuse. The last incident of violence occurred six months ago, while both were students at the University. Am I required to report this?**

Yes. Employees are required to report allegations of relationship violence to the campus Title IX office when the respondent and/or complainant was a University member at the time the relationship violence incident occurred.

- 12. At a public demonstration, in front of a big crowd, a student announced that they have experienced stalking. Am I required to report this?**

No. When a student discloses prohibited conduct at a public awareness or activism event or in other public forums where people are disclosing their experiences with prohibited conduct, you do not need to report to the campus Title IX office. In contrast, a disclosure made by a complainant in class, electronically, during office hours, meetings, or in other conversations must be reported.

13. I am a graduate teaching assistant. What are my reporting obligations?

Graduate teaching assistants are employees pursuant to this policy. Therefore, you are required to report prohibited conduct that you learn about in the course of your teaching assistantship. If you have questions about whether you learned about prohibited conduct in the course of your teaching assistantship, please contact the campus Title IX office for guidance.

14. I am a residence advisor (RA) in a residence hall. What are my reporting obligations?

RAs are considered employees pursuant to this policy. Therefore, you are required to report prohibited conduct that you learn about in the course of your RA role. If you have questions about whether you learned about prohibited conduct in the course of your RA role, please contact the campus Title IX office for guidance.

15. I am a student employee who does not work in Housing & Residential Life. What are my reporting obligations?

Student employees at the University are considered employees pursuant to this policy. Therefore, you are required to report prohibited conduct that you learn about in the course of your student employment. If you have questions about whether you learned about prohibited conduct in the course of your student employment, please contact the campus Title IX office for guidance.

16. I am a fellow. What are my reporting obligations?

Fellows at the University are considered employees pursuant to this policy. Therefore, you are required to report prohibited conduct that you learn about in the course of your fellowship. If you have questions about whether you learned about prohibited conduct in the course of your fellowship, please contact the campus Title IX office for guidance.

17. I am the leader of a student organization. Am I required to report prohibited conduct?

No. Leaders of student organizations are not considered employees pursuant to this policy. Therefore, you are not required to report prohibited conduct that you learn about in the course of your leadership role. If a student discloses prohibited conduct to you, you are strongly encouraged to provide this student with information about resources for counseling, advocacy services and investigations. The campus Title IX office can provide you with this information.

18. Do my reporting obligations change if a student who disclosed that they experienced prohibited conduct is under the age of 18?

Yes. Prohibited conduct involving a minor may be child abuse. Therefore, you are obligated to not only report this prohibited conduct to the campus Title IX office, but also to report to the local police department (including the University Police Departments), county sheriff or local social services agency within 24 hours.

What happens after an employee reports prohibited conduct to the campus Title IX office?

19. What happens when a report is made to the campus Title IX office?

The campus Title IX office will reach out (usually via email) to the complainant to provide resources for personal support and investigation. Based on the initial information the Title IX office in conjunction with the AA/EEOC office will determine if the office has jurisdiction over the case.

In most cases of alleged prohibited conduct involving a student respondent, the campus Title IX office will not conduct an investigation if the complainant does not want to initiate one. In limited circumstances, the campus Title IX office may need to conduct an investigation despite a complainant's desire not to initiate one. For example, the campus Title IX office may need to conduct an investigation if it has sufficient information about the alleged prohibited conduct and if the respondent engaged in the alleged misconduct in the course of University employment or the allegation indicates that the respondent may present a danger or threat to the health or safety of University members.

The campus Title IX office will consider the following factors, in order to determine whether an allegation indicates that the respondent may present a danger or threat among others: whether the respondent is alleged to have used a weapon while committing prohibited conduct; whether the

respondent is alleged to have used force while committing prohibited conduct; or whether the respondent has been alleged to have committed sexual assault, relationship violence or stalking against multiple complainants.

In cases of alleged prohibited conduct involving an employee respondent, the campus Title IX office will consult with the impacted unit and Human Resources to decide how best to respond to the report. In some cases, the impacted unit or Human Resources will ultimately address the matter.

20. If a report of prohibited conduct is made to the police, will this information be shared with the campus Title IX office?

Generally not. When a complainant files a report with the police, the police do not typically forward the report to the campus Title IX office for investigation. The NMT Police Department may forward a prohibited conduct report to the campus Title IX office with the complainant's consent.

21. If a report of prohibited conduct is made to the campus Title IX office, will this information be shared with the police?

No. The campus Title IX office does not report prohibited conduct to the police. Rather, the campus Title IX office offers the option for complainants to report to the police and informs them that individuals from the various campus personal support resources for complainants can assist them in making a police report.

22. If I report prohibited conduct to the campus Title IX office, will my identity be disclosed to anyone?

The campus Title IX office prefers to share the reporter's identity with the complainant so that the complainant understands how the campus Title IX office received the information that the complainant may have experienced prohibited conduct. However, the campus Title IX office will work with the reporter to address the situation in the most sensitive manner possible. In certain circumstances where the reporter has a legitimate need to remain confidential, the campus Title IX office has the discretion to keep the reporter's identity confidential.

Other questions

23. Should I advise students of my reporting obligations in advance?

Yes. If you interact with students regularly, you should notify them about your obligations to report prohibited conduct to the campus Title IX office. This may be done in many ways including, but not limited to, in one-on-one meetings with students, group meetings, and course syllabi.

24. What will happen if I do not report prohibited conduct as I am required to do?

If you do not report this information to the campus Title IX office, the impacted student or employee may not receive important information about the resources available for personal support and investigation.

In addition, when an employee fails to report prohibited conduct to the campus Title IX office, the campus Title IX office may share this information with the employee's supervisor or department head so that appropriate responsive action can be taken. In most cases, the appropriate responsive action will be requiring the individual to take additional training on their prohibited conduct reporting requirements, although disciplinary action may be appropriate in cases where an employee deliberately fails to fulfill this reporting requirement.

25. Does the University offer training for departments or colleges related to employee reporting obligations?

Yes, please contact the campus Title IX office for more information about training options on each campus.