



TITLE IX
PROGRAMS &
COMPLIANCE

Title IX's New Reporting Duties

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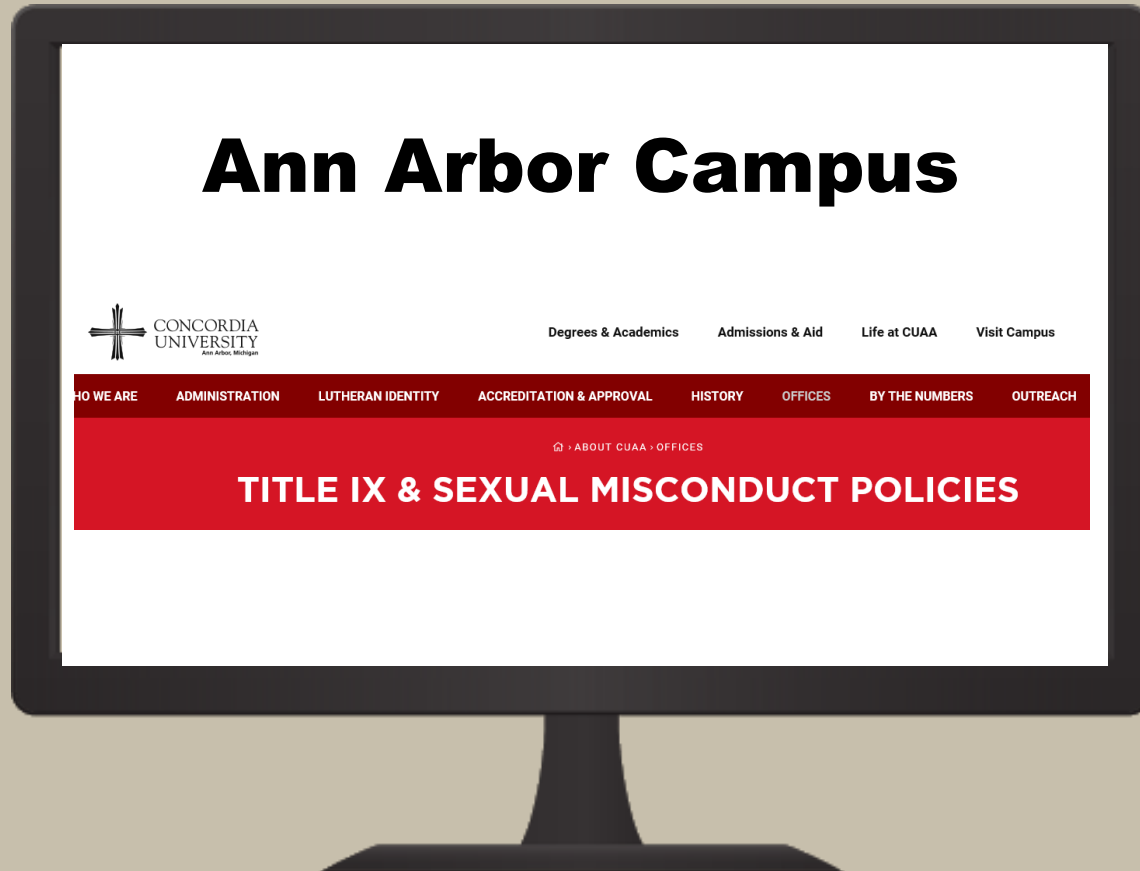
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**All Information Shared Today is available on the Title IX Home Page
Access the University Web Site or the Portal**



Information is identical on both sites!

The Office for Civil Rights (OCR) for the DOE Announced May 6, 2020 Required implementation: August 14, 2020



U.S. Department of Education



Student Loans

Grants

Laws

Data


ARCHIVED INFORMATION

Secretary DeVos Takes Historic Action to Strengthen Title IX Protections for All Students

New regulation defines sexual harassment, requires supportive measures for survivors, restores due process on campus

MAY 6, 2020



A woman with her hair in a bun, wearing a blue button-down shirt, is seated at a table and looking towards a man whose back is to the camera. The man is wearing a dark suit jacket. They appear to be in a professional or office environment. The background is blurred, showing what might be a modern office or meeting space with large windows.

**Are you a
mandatory reporter?**

**Who must report
violations of the
University Sexual
Misconduct Policy?**

Former Policy

“Mandatory Reporter”

[A] responsible employee includes any employee:

- *who has the authority to take action to redress sexual violence; or*
- *who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator; or*
- *other appropriate school designee; or*
- *whom a student could reasonably believe has this authority or duty.*

OCR's 2001 Guidance

OCR Rationale: 34 CFR 106

The Department recognizes the complexity involved in determining best practices with respect to which employees of postsecondary institutions should be mandatory reporters versus which employees of postsecondary institutions should remain resources in whom students may confide without automatically triggering a report of the student's sexual harassment situation to the Title IX Coordinator or other college or university officials.

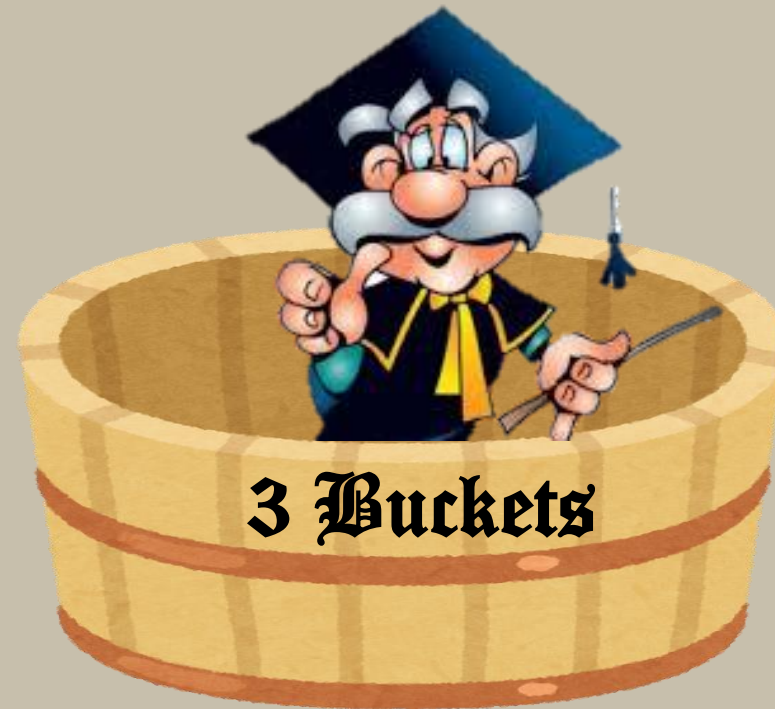
(Title IX Regulations, p. 63)

- ✓ On July 8, 2020 Concordia's Administrative Council determined the CU definition of Mandatory Reporters.

OCR's Categories of Employees

*The Department also intends to leave **postsecondary institutions wide discretion** to craft and implement the recipient's own employee reporting policy . . . (p. 64)*

The regs recommend placing all employees into one of 3 groups



... wide discretion to craft and implement the recipient's own employee reporting policy to decide which employees ... (p. 64)



1) Mandatory Reporters: *... are mandatory reporters*



2) Confidential Employees: *... may listen to a student's or employee's disclosure of sexual harassment without being required to report*



3) Discretionary Employees: *... must report sexual harassment to the Title IX Coordinator but only with the complainant's consent.*



CU Policy: Mandatory Reporters

Mandatory Reporters are those **required to report to the Title IX Coordinator** in a **prompt manner** any **allegations of a violation of the University Sexual Misconduct Policy** which come to their attention.

- Mandatory Reporters are the University President and all those employees who are subordinate to the President and fit one or more of the following classifications:

Who are Mandatory Reporters

- **Members of the Title IX Staff (Coordinators and Investigators)**
- **Members of the Resident Hall Staff (including Residents Assistants)**
- **All Campus Safety Staff (full and part-time)**
- **“Provost” and subordinates with Provost or Vice President in their Job Title**
- **“Vice Presidents” and subordinates with Vice President in their Job Title**
- **“Deans” and subordinates with Deans in their Job Title**
- **“Director” and subordinates with Director in their Job Title**
- **Athletic Administrative Staff, Coaches, and Athletic Trainers**



CU Policy: Confidential Employees

Confidential Employees are those employees who hold a professional license or state recognized privilege (e.g. LCMS Pastors) and are hired to provide that service to the University Community. Confidential employees are NOT required by the Sexual Misconduct Policy or Title IX to report ANY information to the Title IX Coordinator or designee under the terms of their license or ordination. Confidential Employees are those employees who fit one or more of the following classifications:

- **Licensed members of the University Counseling staff**
- **Licensed members of the University Health Services staff**
- **Members of the University Campus Ministry staff**
- **Ordained Clergy who teach in the Theology Department and who are not mandatory reporters as outlined directly above**

Portal or University Homepage

TITLE IX & SEXUAL MISCONDUCT POLICIES

△ TITLE IX & SEXUAL MISCONDUCT POLICIES

Title IX Staff

Reporting an Incident

Sexual Misconduct Policies

Grievance Process (Adjudication)

Appeal Process

Request for Appeal

Employee Reporting Responsibilities

Supportive Measures

Pregnant and Parenting Students

In developing a "Mandatory Reporting Policy", the
[Confidential Employees](#), and 3) Discretionary Emp

1) Mandatory Reporters

2) Confidential Employees

2) Discretionary Employees

For Both Campuses (31 Names)

- Counseling Staff
- Health Service Staff
- Campus Ministry Staff
- Ordained Clergy (LCMS)

Campus	Name	Office	Phone	Email
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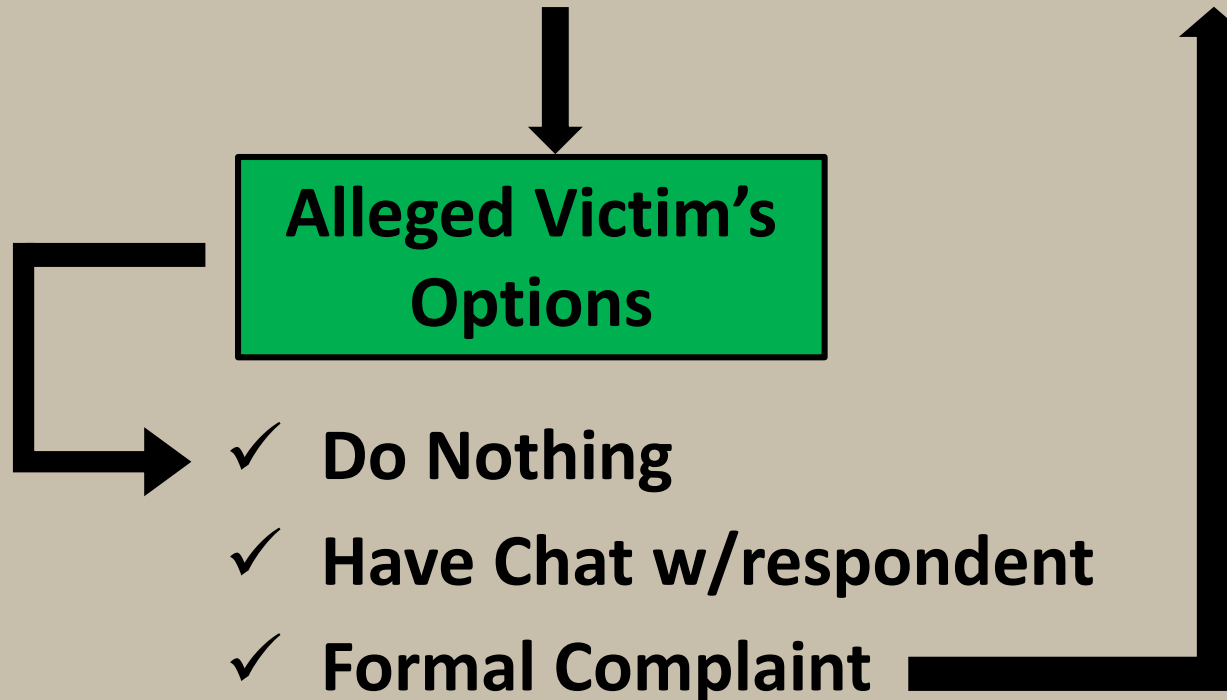
CU Policy: Discretionary Employees

Discretionary Employees are all those who are not covered in the above two designations. Discretionary Employees have the option to report or not report allegations of a violation of the University Sexual Misconduct Policy which come to their attention.



Best Practice: Inform the student or employee that you intend to notify the Title IX Coordinator and that the Coordinator will likely invite you (student/employee) to a meeting.

The Process: Start to Finish



Sexual Misconduct Policy

Portal > Resources > Title IX Compliance > Click Here

TITLE IX & SEXUAL MISCONDUCT POLICIES

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Consent to Sexual Activity (definition)

Prohibited Conduct (next slide)

Sexual Misconduct Sanctions (students & employees)

Prohibited Conduct

A Title IX Component ₁

A University Component ₂

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E

2
Parts



ONE POLICY WITH 2 PARTS



*“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”*



Section 106.45(b)(3). *Similarly, **nothing in these final regulations prevents** a recipient from **addressing conduct that is outside the Department’s jurisdiction** due to the conduct constituting sexual harassment occurring outside the recipient’s education program or activity, or occurring against a person who is not located in the United States.*

Prohibited Conduct

Title IX Offenses

1. **Sexual Harassment**
2. **Clery Sexual Assault Offenses**
 - 2a Forcible Rape
 - 2b Forcible Sodomy
 - 2c Sexual Assault w/an object
 - 2d Incest
 - 2e Statutory Rape
 - 2f Fondling
3. **Dating Violence**
4. **Domestic Violence**
5. **Stalking**
6. **Retaliation**

} VAWA
Offenses

University Offenses

7. **Sexual Harassment**
8. **Non-Consensual Sexual Intercourse**
9. **Non-Consensual Sexual Contact**
10. **Sexual Exploitation**
11. **Stalking**
12. **Dating Violence**
13. **Domestic Violence**
14. **Retaliation**
15. **Improper Restraint or Detention**
16. **Fraud and Lying**

What should you do if someone shares a traumatic experience with you?



Scott Lewis J.D., Cofounder of **ATIXA**



W. Scott Lewis

Partner, TNG, LLC

TED Spokane

an independently organized TED event





3 Take-A-Ways: Scott Lewis' Advice

1. *“Are you OK”*
2. *“What can I do to help?”*
3. *“Get them to someone who can help!”*



**Title IX Coordinator on
your campus**