

## **Title IX and Research Studies – FAQs**

### **1. Why do researchers need to report now when they didn't have to report before? What has changed?**

The current reporting requirements and policy are to comply with a new state law. The UHS Sexual Misconduct Policy was updated pursuant to the new law, Texas Education Code, Section 51.252, which mandates that all university employees who witness or receive information regarding an incident that they reasonably believe constitutes sexual harassment, dating violence, stalking, or sexual assault committed by or against an enrolled student or a University employee at the time of the incident to promptly report the incident to the University's Title IX Coordinator.

### **2. What is sexual harassment?**

"Sexual Harassment" means unwelcome, sex-based verbal, written or physical conduct that:

1. in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
2. 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 post-secondary educational institution.

Sexual harassment includes non-consensual sexual touching, sexual exploitation, and sexual intimidation as defined by the UHS Sexual Misconduct Policy.

### **3. What is dating violence?**

Dating Violence means violence committed by a person:

1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. the length of the relationship;
  - b. the type of relationship; and
  - c. the frequency and nature of interaction between the persons involved in the relationship.

#### **4. What is stalking?**

“Stalking” is engaging in a course of conduct (2+ times) directed at a specific person that would cause a reasonable person to fear for their safety and/or the safety of others or suffer emotional distress. Reporting obligations apply to acts of Stalking that occur between people who currently have or have had a romantic or sexual relationship or due to the Respondent’s desire to have a romantic or sexual relationship with the Complainant.

#### **5. What is sexual assault?**

"Sexual Assault" means sexual intercourse that occurs without consent. Examples include:

1. Penetration, however slight, of an orifice (anal, vaginal, oral) with the vulva, anus, or mouth, by a penis, finger, or other object;
2. Other acts of oral sex or anal stimulation; and
3. Knowingly exposing a person to and/or transmitting a sexually-transmitted infection or HIV/AIDS to another.

#### **6. What information do researchers need to report and when?**

All researchers must “promptly” report incidents of sexual misconduct they become aware of. When practicable, please report within 24 hours.

Researchers who have not been designated as Confidential Resource Employees must report all known information concerning the incident. Researchers who have been designated as Confidential Resource Employees must report the type of incident reported and may not include any information that would violate a student’s expectation of privacy.

To whom and how to report are covered in Question 12, below.

#### **7. How do I know if I am a Confidential Resource Employee?**

You are not a Confidential Resource Employee unless you have been notified by the University that you are. Only faculty and staff designated by the University are Confidential Resource Employees.

#### **8. How do I become designated by the University to be a Confidential Resource Employee?**

Researchers should request designation as a Confidential Resource Employee from the IRB if they believe that a research project may elicit disclosure of incidents of sexual misconduct, and that the reporting of all known information regarding sexual misconduct to the Title IX Coordinator would interfere with the legitimacy of the research project and the ability to recruit participants for the study.

Researchers who are designated as Confidential Resource Employees for the purposes of their research study or studies, are *not* considered Confidential Resource Employees outside of the scope of the designated research. Therefore, if a researcher, outside of the research study, were to witness or learn of sexual assault, sexual harassment, dating violence, or stalking involving a member of the UH community, they would be required to make a full report as provided in the answer to Question 13.

**9. Do I still need to request designation as a Confidential Resource Employee if I have received a Certificate of Confidentiality from NIH?**

Yes. The NIH Certificate of Confidentiality is issued based upon federal regulations, rather than Texas law. Because the designation as a Confidential Resource Employee is made to comply with state law, it is a separate determination. The NIH Certificate of Confidentiality may be considered by the IRB as one factor in making the determination.

**10. What information will the IRB consider in determining whether to designate a researcher as a Confidential Resource Employee?**

The IRB will consider the following in determining whether to designate a researcher as a Confidential Resource Employee:

- Whether the study is likely to elicit disclosures of sexual harassment, sexual assault, dating violence, or stalking by or against a person who was a UH student or UH employee at the time of the incident.
- Whether the reporting of all known information regarding sexual misconduct to the Title IX Coordinator would interfere with the legitimacy of the research project and the ability to recruit participants for the study.
- Whether the nature of the study would make a participant believe that they had the expectation of confidentiality in the context of the study.

A researcher does not need to be designated as a Confidential Resource Employee when a study is anonymous and the researcher does not know whether a disclosure came from someone who was affiliated with the University at the time of the incident.

**11. Do researchers still have reporting obligations when the study is anonymous?**

Maybe. If a study is anonymous and the researcher does not know whether an individual participant is a member of the UH community, the researcher does not have to report. However, if the participant pool consists of only UH community members, and the researcher has reasonable belief that the incident of sexual misconduct occurred while that individual was a student or employee of the University, a report is required. If the study is designed to be

conducted using members of the larger community as participants, the researcher is not required to ask a specific question to ascertain whether a participant is affiliated with UH.

## **12. How do researchers designated as Confidential Resource Employees make a report?**

Researchers who have been designated as Confidential Resource Employees must make a report of only census-level data of information learned as a part of the research study using the online [Confidential Employees Title IX Report Log](#). In keeping with the confidentiality expected as a part of the research study, they are not permitted to report any individually identifiable information about the incident or the person making the disclosure.

## **13. How do researchers who have not been designated as Confidential Resource Employees make a report?**

Researchers who have not been designated as Confidential Resource Employees are required to make a report by one of the following methods:

- Through the “Discrimination and Sexual Misconduct Reporting and Awareness” link at the bottom of every UH webpage,
- Via the Fraud & Non-Compliance Hotline also linked at the bottom of every UH webpage, or
- By contacting EOS by phone or email.

## **14. How do researchers provide information about resources available to those who have experienced or perpetrated sexual misconduct?**

Researchers are welcome to share the EOS “Here to Help: Support Resources” guide with both victims and perpetrators of sexual misconduct. Additionally, researchers can provide contact information for the [Sexual Misconduct Support Services Manager](#) to students and employees who need confidential assistance connecting to additional support and/or learning more about the Title IX process.

## **15. Are researchers required to report only when a victim makes a disclosure related to sexual misconduct or should they report disclosures from perpetrators as well?**

Researchers must report when either a victim or a perpetrator make a disclosure of sexual misconduct.

## **16. Are researchers mandatory reporters when the individual disclosing sexual misconduct is not affiliated with the University?**

Researchers are only mandatory reporters under Texas Education Code 51.252 when the individual disclosing the sexual misconduct was a student enrolled in or an employee employed at the University at the time of the incident.

For example, if a student discloses sexual abuse that occurred during middle school, the researcher is not required to make a report because the incident did not occur while the student was enrolled at UH. If the student is still being impacted by the incident, the researcher may share information about support resources with the impacted individual.

These mandatory reporting requirements are separate and apart from any other reporting requirements, such as those required under the Texas Family Code, or other professional codes.