

Harris-Stowe State University Title IX Policy



Effective: August 14, 2020

Statement of Policy

The University is committed to providing a safe and non-discriminatory educational and work environment for all members of the University community. The University does not discriminate on the basis of sex in any of its education or employment programs or activities, and this Policy prohibits behaviors that violate Title IX of the Education Amendments of 1972 (“Title IX”) and other federal and state laws and regulations. Title IX states in part:

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...

The University prohibits discrimination on the basis of sex in its education programs, activities, admissions, recruitment, financial aid, academic programs, student services, athletics, housing, and employment. Title IX and the University prohibit exclusion from or being denied the benefits of any academic, extracurricular, occupational training, sports, research, or other educational program and activity on the basis of sex, including sexual orientation and gender identity.

The University will take immediate and appropriate steps to investigate or otherwise determine what occurred in response to a report of or if it otherwise learns of a possible violation of this Policy. In addition, the University will promptly take steps to end any such misconduct, to prevent its recurrence, and (as appropriate) remedy its effects regardless of whether the individual who has been victimized complains of the misconduct or asks the University to act.

It is the University’s commitment to provide a safe and healthy learning environment for students to thrive and grow, as well as for employees to satisfactorily perform their job duties in an environment free of sexual harassment, sexual misconduct, and sex discrimination. This commitment includes the safety of volunteers and visitors of the University as well. The University will not tolerate conduct that violates this Policy.

Scope

It is the responsibility of every member of the University community to foster an environment free of prohibited conduct. This Policy applies to all University students, faculty members, and employees. It also applies to third parties, including contractors and vendors doing business at and/or with the University, visitors, alumni and other non-members of the University community who are present on the University's campus or participating in events or programs that are sponsored by or related to the University.

This Policy applies to conduct that occurs both on and off of the University's campus, as described below:

- The conduct occurs on-campus or on grounds or other property owned or controlled by the University;
- The conduct occurs in the context of a University-related or sponsored employment or education program or activity, regardless of location (including travel, research, on-line, University-sponsored student organization, and internship programs); or
- The conduct occurs outside the context of a University employment or education program or activity but creates a hostile environment for students, employees or third parties while on grounds or property owned or controlled by the University.

Prohibited Conduct

Title IX prohibits sexual harassment, which is unwelcome conduct on the basis of sex, including sexual orientation and gender identity. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature or based on sexual orientation or gender identity and falls into one or more of the following types of misconduct:

- quid pro quo harassment by a University employee, which means that an employee either explicitly or implicitly condition the provision of aid, benefits or services of the University on an individual's participation in unwelcome sexual conduct;
- conduct on the basis of sex that in the view of a reasonable person is so severe and pervasive and objectively offensive that it effectively denies a person equal access to a University education or work program or activity; or
- sexual assault, dating violence, domestic violence, or stalking.

Unwelcome conduct on the basis of sex includes but is not limited to: sexual contact; touching of a sexual nature; sexual assault; rape; making unwanted sexual advances and propositions to pressure others for sexual favors; leering at or ogling a person's body; performing sexual gestures; touching oneself sexually in front of others; engaging in indecent exposure; unwelcome sexual behavior; telling sexual or dirty jokes; spreading sexual rumors; rating other individuals as to sexual activity or performance; intimate partner violence; sexual misconduct; sexual exploitation, trafficking and slavery; sexual predatory conduct; sexually suggestive or disparaging language; writing offensive sexual graffiti; displaying or distributing sexually explicit drawings, pictures, or written or electronic materials; stalking; circulating or showing emails or websites of a sexual nature; cyber-stalking; sexual favors with express or implied threats; the creation, dissemination or possession of pornographic materials; the electronic transmission of offensive, provocative, harassing, sexual material by email, text messages and other forms of social media; and any other conduct of a sexual nature that has the purpose or effect of threatening, intimidating or coercing a person to engage in sexual activity or otherwise interfere with a person's ability to receive her/his education or pursue his/her employment, regardless of whether the conduct is or may be a criminal offense.

Conduct is unwelcome if a person did not consent to it. Consent is agreement, assent, approval, or permission given voluntarily and may be communicated verbally or by actions. That a person welcomes some sexual contact does not necessarily mean that person welcomes other sexual contact. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion.

In addition, when a person is incapacitated, meaning so impaired as to be incapable of giving consent, conduct of a sexual nature is deemed unwelcome, provided that the respondent knew or reasonably should have known of the person's incapacity. The person may be incapacitated as a result of drugs or alcohol or for some other reason, such as sleep or unconsciousness. A respondent's impairment at the time of the incident as a result of drugs or alcohol does not, however, diminish the respondent's responsibility for sexual harassment under this Policy.

Disciplinary Sanctions

The University strives to provide a safe campus conducive for learning, achieving, and developing. This Policy prohibits a broad range of conduct which interferes with these important goals and are serious in nature. As a result, any violation of this Policy will be treated seriously and may result in sanctions and corrective actions, up to and including termination and/or expulsion. Sanctions will be determined based on the unique facts and circumstances of the particular violation and may include, but are not limited to, appearing before the Rights & Responsibilities Committee, referral to local law enforcement, dismissal, expulsion, termination of employment, termination of contract, removal from campus, or other revocation of privileges on the campus of the University.

Non-Retaliation

The University will not retaliate against any individual for making a report or complaint of sexual harassment or for participating or refusing to participate in any proceeding regarding such a report or complaint.

Coordination with Other University Policies

This Policy addresses harassment and discrimination on the basis of sex. Other forms of discrimination and harassment based on race, color, nationality or ethnic origin, age, or disability are governed by the University's Policy and Procedure on Equal Opportunity in Employment and Education Programs and Activities.

In addition, the conduct of students, employees, and faculty are governed or impacted by the following:

Student Code of Conduct

Students Privacy Rights Policy (FERPA)

Clery Act Disclosure Policy (200-004)

Employee Handbook

University Faculty Handbook

University-NEA CBA for University Faculty

University Greek Life Handbook

University Student Athlete Handbook

Reporting a Policy Violation

The University strongly encourages all individuals on the campus and of the campus community to report all instances, concerns, or complaints of sexual misconduct or violence to any of the Title IX Points of Contact as soon as possible

There are multiple ways to notify the University of prohibited conduct, including:

- Filing online via <http://www.hssu.edu/TIXReport>
- Reporting directly (in person, by mail, or by email) to a Title IX Point of Contact. Please see the list of Title IX Contacts at <http://www.hssu.edu/TIX>

NOTE: Title IX Points of Contact are the only University personnel with the authority to institute corrective measures related to prohibited conduct. Therefore, if a report is submitted to any other University personnel, it may not be officially documented or even assessed for next steps under this Policy.

The University prohibits any individual from making a false report of sexual misconduct or violation of this Policy. A false report is the providing of information in any report or proceeding under this Policy that is intentionally false or made maliciously without regard for the truth. A false report does not include a report that was brought in good faith, but later found to be unsubstantiated. An allegation of prohibited conduct may have severe consequences and so the University takes seriously the validity of reported information. All University community members are expected to provide truthful information in any report or proceeding under this Policy. Sanctions of various measures will be used against any individual who makes a false report.

Any student has the right to file a criminal complaint against the respondent with local law enforcement, as well as file a Title IX complaint simultaneously. At the request of law enforcement, the University may agree to defer its investigation until after the initial stages of a criminal investigation. The Title IX Coordinator will nevertheless communicate with the reporting party regarding his or her Title IX rights, procedural options, and the implementation of interim measures to ensure safety and well-being pending the criminal investigation. The University will promptly resume its fact-gathering as soon as law enforcement has completed its initial investigation.

Questions regarding Title IX may be referred to the University's Title IX Coordinator or to the Office of Civil Rights: U.S. Department of Education. If there is any kind of sex discrimination or sexual misconduct directed towards you or another, please contact a Title IX representative for the university. The University's Title IX points of contact can be found at: <http://www.hssu.edu/TIX>.

Title IX Points of Contact

Title	Title IX Coordinator	Deputy Coordinator	Assistant Provost
Phone	314.340.3340	314.340.5030	314.340.3351
Email			

To submit a concern online, go to <http://www.hssu.edu/TIXReport>.

Emergency

Contact the Department of Public Safety, immediately, if you are injured, in need of emergency assistance, or know of a potential crime. The Department of Public Safety provides a safe and secure environment in which students, faculty and staff can study and work in a secure environment.

Local law enforcement may also be contacted at 911.

Procedures After the Report Is Submitted

The investigation and grievance procedures to address reports of prohibited conduct shall be overseen by the University consistent with Title IX.

The University shall take reasonable steps to protect both the reporting and responding parties to ensure safety as necessary, including taking interim steps before the final outcome of any investigation.

The University will treat reporting parties equitably by providing remedies any time a respondent is found responsible, and treat respondents equitably by not imposing disciplinary sanctions without following the grievance process.

Remedies, which are required to be provided to a reporting party when a respondent is found responsible, will maintain the reporting party's equal access to education. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. The University will make an objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a reporting party, respondent, or witness.

1. Initial Review

Once a complaint is received by the University's Title IX Coordinator, the Title IX Coordinator or assigned investigator(s) will conduct an initial review to gather a more complete understanding of the allegations, as well as any related conduct that may implicate the Policy, and consideration of appropriate grounds for dismissal of the complaint. The University personnel involved in this review and any other step in the grievance procedures will have appropriate training and will not have a conflict of interest or bias for or against reporting parties or respondents in the instant matter or any other matter.

The assigned Investigative Team, in consultation with the Title IX Coordinator, will determine if the complaint shall proceed to a full investigation or if a dismissal is warranted.

The Investigation Team will determine in collaboration with the Title IX Coordinator whether it has jurisdiction to investigate the matter. The Investigation Team only has jurisdiction to investigate complaints alleging sex discrimination, sexual harassment, sexual misconduct, sexual assault, and retaliation.

If the Investigation Team determines that there is no jurisdiction or that the complaint is not covered by this Policy, it shall refer the matter back to the Title IX Coordinator, who will offer to assist the reporting party and, as appropriate, the respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern. If the Investigation Team determines that it has jurisdiction over the complaint, it will proceed to Step 2.

2. Investigation.

The Investigation Team will conduct a fair and impartial investigation of the alleged Policy violation. Typically, an investigation will be completed within 60 days of receipt of referral to the Investigation Team. If it becomes necessary to extend the process, both parties will be

notified of a revised expected resolution timeframe. Although each complaint is unique and investigations will be conducted in a manner and scope that is appropriate based on the nature of the complaint, the following steps will generally be used in conducting the investigation:

- Reporting party provides a verbal or written account of the event, and any documents relevant to the complaint, to the Investigation Team. Reporting party identifies any potential witnesses.
- Investigation Team meets with respondent, reviews rights, and obtains a verbal or written account of the incident, along with any documents relevant to the complaint. Responding party identifies any other potential witnesses.
- Investigation Team meets with any witnesses believed to have knowledge about the incident, and obtains any documents they may have that are relevant to the complaint.
- If necessary, Investigation Team conducts follow-up meetings with reporting party, respondent, or witnesses, to clarify information gained through the investigation, and to determine if reporting party or respondent wish to offer any additional witnesses or evidence.
- No fewer than two members of the Investigation Team shall be present during any interviews of the reporting party, respondent or witnesses. Preferably though, all members of the Investigation Team will be present for all interviews.
- Both the reporting party and the respondent may bring a personal advisor of their choice to any meeting or other proceeding that is part of the investigation, including the initial review or hearing. The University will not limit the choice or presence of a personal advisor for either party.
- The rights of the respondent are protected and respected by the University to the same degree as that of the reporting party.

If the Investigation Team finds that this Policy was not violated, the decision is documented through a written summary. If the Investigation Team finds that this Policy was violated, that decision shall be documented in a written report that summarizes the basis for the decision, and which shall include recommendations for steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the violation and sanctions against the respondent.

3. Hearing

The University will provide for a live hearing at the written request of one or more of the parties.

At this hearing, the decision maker(s) will allow each party's advisor to ask the other party and any relevant witnesses all relevant questions, including questions related to credibility. Any such cross-examination will be conducted directly, orally and in real time by the party's advisor and not by a party personally. If a party or witness does not submit to cross-

examination at the hearing, the decision maker will not rely on any statement of that person when reaching a determination. At the request of either party, the hearing will be conducted to allow the parties to be in separate rooms, but to see and hear each other. Only relevant questions may be asked of a party or witness. The hearing may be conducted virtually at the University's discretion. An audio, written or video record of the hearing will be created by the University. The University will provide without cost to a party, an advisor of the University's choice, if the party does not provide their own advisor.

The decision maker will issue a written determination regarding responsibility, applying a preponderance of the evidence standard. The written determination will include a description of the procedural steps taken; findings of fact supporting the determination; conclusions regarding the application of the Policy to the facts; a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the respondent if applicable, and whether remedies will be provided to the reporting party; and the procedures and permissible bases for the parties to appeal.

Informal Resolution

If the reporting party, the respondent, and the Title IX Coordinator at any time all agree that an informal resolution should be pursued, the Title IX Coordinator shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. In cases involving allegations of sexual assault, informal resolution is not suitable, even if both the reporting party and the respondent indicate a preference for informal resolution.

Under the informal process, the Title IX Coordinator shall be required only to conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the University, and the community.

Typically, an informal resolution will be completed within 60 calendar days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe. If at any point during the informal process, the reporting party, the respondent, or the Title IX Coordinator wishes to cease the informal resolution process and to proceed through the formal resolution process, the formal process outlined in this Policy will be followed.

Any resolution reached through the informal process shall be documented and agreed to in writing by the reporting party, the respondent, and the Title IX Coordinator. The informal resolution must adequately address the concerns of the reporting party, as well as the rights of the respondent and the overall objective of the University to stop, remedy and prevent policy violations. Informal actions might include, but are not limited to: targeted or broad-based educational training or programming; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination or a hostile environment, harassment; or having a confidential conversation with a supervisor or instructor.

In cases that do not involve sexual assault, mediation and other restorative justice programming may be an appropriate form of informal resolution; provided, however, that a reporting party may not be required to directly confront a respondent through that process.

Remedies for Violations of Policy

If a respondent is found to have violated this Policy, any written report will be provided to the appropriate disciplinary authority designated by the University for a determination of appropriate sanctions.

The designated disciplinary authority must inform the respondent and the Title IX Coordinator of the ultimate sanctions imposed upon a respondent. The Title IX Coordinator will inform the reporting party of the sanctions imposed to the extent permitted by applicable Title IX regulations and privacy laws.

Appeal Process

Both the reporting party and the respondent have the right to appeal the outcome of a complaint within 10 calendar days of receipt of the written outcome. Such appeals must be in writing and directed to the Title IX Coordinator. The opposing party will have the opportunity to provide a written response to the appeal. The appeal will be reviewed and decided by a trained University leader at the Vice President and/or Dean level or above, and will be based solely on the written record.

Written notice of the outcome of any complaint, including at the investigation, hearing and appeal stages will be provided by the University to the reporting party and the respondent.

Each involved party has a right to an appeal from a determination regarding responsibility, and from a school's dismissal of a formal complaint or any allegations therein, on the following bases:

- procedural irregularity that affected the outcome of the matter
- newly discovered evidence that could affect the outcome of the matter
- Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter
- based on the record as a whole, no reasonable decision maker could have reached the same determination regarding responsibility

Confidentiality

With the reporting party's request, and to the extent possible, the University will investigate a report of prohibited conduct as confidential in nature. In the event that some information must be disclosed in furtherance of investigating any complaint, the University will disclose selective information (only to the extent necessary and on a need-to-know basis) that is to be used only for complaint resolution and for the safety of the victim, other students, employees, volunteers, and visitors. The Title IX Coordinator and school officials are best suited to evaluate those requests for confidentiality on a case-by-case basis.

Under some applied laws and statutes, the University must adhere to a request to inspect and review information about allegations maintained by the University. In such a case, the University may redact the reporting party's name and all identifying information before allowing the respondent to review the allegations to the extent allowed by law. The University will make reasonable efforts to inform the respondent and reporting party of request for information about the allegations.

The University will keep confidential the identity of reporting parties, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

Prevention and Awareness Programs

The University is committed to the prevention of prohibited conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming, and returning students and current employees receive ongoing training and related programs. The University provides coordinated programming and training through multiple areas, including the Title IX Office, Division of Student Affairs, Department of Public Safety, Human Resources, the Provost's Office, University Counseling Services, and other University departments.

Counseling Services

The University provides counseling, advocacy, resource referrals, and support services to students in regards to prohibited conduct. The Office of Counseling Services provides students with individual and group counseling, and a variety of programs to foster personal and educational growth, effective problem solving, and thoughtful cohesive decision making. Counseling is confidential and free to all currently enrolled students.

University employees are encouraged to, also, seek out counseling with EAP services of the University. Other local resources that address sex discrimination and sexual misconduct are: YWCA Women's Resource Center at 314-531-7273 or 211.

External Reporting

University community members may raise concerns about the University's application of Title IX or Title VII with the United States Department of Education, Office for Civil Rights ("OCR").

The address and telephone number of the appropriate OCR District are as follows:

The Office of Civil Rights	Office for Civil Rights District of Columbia Office
U.S. Department of Education	U. S. Department of Education
1010 Walnut St., Suite 320,	400 Maryland Avenue,
Kansas City, MO, 64106	S.W. Washington, D.C. 20202-1475
816-268-0550	Telephone: (202) 453-6020
OCR.KansasCity@ed.gov	

Annual Review

This policy is maintained by Human Resources. The University will review this Policy on at least an annual basis. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process (including as to the fairness of the process, the time needed to complete the process, and the sanctions and remedies imposed).

Definitions

Unless defined specifically in this Policy, the terms used in this Policy will have the meaning provided under Title IX and its rules.

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