Title IX and Mandatory Reporting
August 10, 2018
Overview

We will focus on:

• Title IX
• Mandatory reporting requirements
• Scenarios
• UTC’s investigation process
• Resources and support available for students
What is Title IX?

• Title IX is a federal law that prohibits discrimination based on sex in education programs and activities that accept federal funds.

• Discrimination based on sex includes:
  • Unequal opportunities in athletics
  • Sexual misconduct, relationship violence and stalking

During today’s presentation we will focus on sexual misconduct, relationship violence and stalking.
What does Title IX require?

• Title IX and other federal laws require universities to:
  • Investigate – this is in addition to a criminal investigation, if any
  • Remediate and
  • Prevent

  Sexual Misconduct, relationship violence and stalking.
What does a Title IX Coordinator Do?

• The Title IX Coordinator is in charge of the University’s response in cases of sexual misconduct, relationship violence and stalking, including:
  • Overseeing investigations
  • Approving interim measures for students who have been impacted
  • Prevention education
  • Mandatory reporter education
What Am I Required to Report?

- Under Tennessee State law, all University employees are required to report instances of **child abuse** and **elder abuse** to the proper authorities.
- Under UTC’s *Policy on Sexual Misconduct, Relationship Violence and Stalking*, employees may be required to report instances of **sexual misconduct**, **relationship violence and stalking** to the University.
What Triggers the Need to Report an Incident to the University?

All faculty members are mandatory reporters of sexual misconduct, relationship violence and stalking. If a reported incident involves a student, or an employee you supervise, it must be reported to the University unless an exception applies.
What Is Sexual Misconduct?

• Sexual Harassment
• Sexual Assault
• Sexual Exploitation
Sexual Harassment
Employee vs. Employee or Employee vs. Student

Unwelcome sexual advances, requests for sexual favors, if
• Used as a term or condition of an individual's employment / participation in an educational program; OR
• Used as the basis for employment decisions or advancement in an educational program; OR
• Unreasonably interferes with an individual's work performance or educational performance; OR
• Creates an intimidating, hostile, or offensive working or educational environment.
Sexual Harassment
Student or other Non-Employee

Unwelcome conduct of a sexual nature that is so severe or pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by UTC.
Sexual Assault

Sexual Assault: Engaging in Sexual Contact or Sexual Intercourse with another person without the Consent of that person.

- **Sexual Contact**: Touching another person in a sexual manner or intentionally causing another person to touch themselves (including their clothing) in a sexual manner.

- **Sexual Intercourse**: The penetration, no matter how slight, of the vagina or anus with any body part or object; or oral penetration by a sex organ of another person.
What is Consent?

• Consent is an active, ongoing agreement to engage in sexual activity.

• Consent must be:
  • Obtained – not assumed
  • Affirmative – not silence
  • Voluntary – not pressured or coerced; incapacitated people can’t consent
  • Continual – not forever; consent can be withdrawn at any time
Sexual Exploitation

An act or attempted act by a person for the purpose of sexual arousal or gratification, financial gain, or other personal benefit through the abuse or exploitation of another person’s sexuality.

• Examples:
  • Revenge porn
  • Exposing someone to an STI without consent
What Is Relationship Violence?

• Dating Violence
• Domestic Violence
Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim of the violence.
Domestic Violence

Violence committed by a person with whom the victim has a certain relationship.

Examples:

- A current or former spouse or intimate partner;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner.
What Is Stalking?

Engaging in a Course of Conduct directed at a specific person that would cause a reasonable person to:

• Fear for the person’s safety or the safety of others; OR

• Suffer Substantial Emotional Distress.
Remember

The definitions of misconduct are not provided so that you can conduct an investigation or determine if wrongdoing has occurred.

If a report reasonably falls into one of the prior definitions, it must be reported.
Exceptions

Incidents disclosed during events like Take Back the Night, survivor speak-outs and other public awareness programs, and incidents disclosed in a written academic assignment.
I Feel Like A Student Is About To Report Something, What Should I Do?

- Gently interrupt the Student.
- Tell them you are a mandatory reporter (and what that means).
- Specifically tell them that if they tell you that they have been the victim of an incident of sexual misconduct, relationship violence and/or stalking, you are obligated to report that to the University.
What Do I Do If The Student Stops Talking?

• Provide Confidential Resources
  Survivor Advocacy Services
  350 University Center
  (423) 425-5648
  24/7 support by calling UTCPD dispatch at (423) 425-HELP and asking for the advocate on call.

  Counseling Center
  338 University Center
  (423) 425-4438
  24/7 support by calling UTCPD dispatch at (423) 425-HELP and asking for the counselor on call.
What Can A Report Look Like?

• A student may not use the “right” words.

• They may say “taken advantage of” or use other euphemisms.

• The student will probably not say “I would like to report X to you.”
What If the Student Has Already Told Someone Else?

- Student Health Services, the Counseling Center and Survivor Advocacy Services are all confidential resources.
- The University may receive more than one report on the same incident, that’s much more preferable to not receiving any.
What If The Incident Happened A Year Ago (Or More)?

• Timeline does not matter - it must be reported to the University.
What If The Incident Happened Off Campus?

- Location of the incident does not matter – it must be reported to the University.
I Have Received a Report. What Do I Do?

• Assist the Complainant with obtaining medical assistance (if requested) or accessing either on or off campus resources (if requested).

• Encourage the Complainant to report the incident to law enforcement and assist in contacting law enforcement (if requested).

• Report the incident to UTC.
I Have Received a Report. What Do I Do?

• Provide emotional support for the Complainant.
• Encourage the Complainant to preserve any physical evidence.
• Inform the Complainant that you will be reporting the incident to the University.
What NOT to Do

• Guarantee to a Complainant you will keep information confidential;
• Share information about the incident with a person who does not have a UTC-related need to know;
• Share personally identifiable information with law enforcement (including UTCPD) without the Complainant’s consent; and/or
• Investigate or otherwise attempt to resolve reports.
How Can I Be Supportive?

- Validate the person’s experience and reflect back what they’ve told you.
- Don’t tell them what to do. Discuss options, and be encouraging, but let them decide.
- Avoid using language or asking questions that could suggest that what happened was their fault. (i.e., How much were you drinking? What were you wearing?)
- Your instinct might be to comfort the person with a hug, and that may be okay, but check with the person first.
How to Report

- Contact Stephanie Rowland, Title IX Coordinator, at Stephanie-Rowland@utc.edu or (423) 425-4255
Scenario 1

A student comes to talk to you. You can tell she has been crying. She is acting like she wants to tell you something, and it seems really bad. You gently interrupt her and tell her that you are a mandatory reporter. She stops talking.

What do you do?
One of your students comes up to you and asks to talk with you. Suddenly he blurts out “I think I did something bad last night. I had sex with a girl who was really, really drunk.”

What do you do?
Scenario 3

One of your students discloses during a class discussion that she was sexually assaulted last year.

What do you do?
What Happens After I Report?

- You will provide the information you have, but after that your role will be very limited.
- The involved student will be contacted.
- Depending on the situation, there will be an investigation into the incident.
Investigative Overview

- Investigations of Student v. Student incidents are conducted by Student Conduct within the Office of the Dean of Students
  - Brett Fuchs, Associate Dean of Students
  - Matthew Holzmacher, Assistant Dean of Students
- All investigative interviews are audio recorded
- Students (including Complainant, Respondent, and all witnesses) may have an advisor present with them at all meetings
Does the University Have to Investigate?

- Complainants may file an official report with the University and also make a Request for Limited Action to:
  - Request that their name not be disclosed to the Respondent; and/or
  - Request that UTC not investigate an incident further or pursue disciplinary action against the Respondent
- Regardless, Complainants are not required to participate in an investigation.
Report and Findings

- Based on the preponderance of the evidence
- Respondent can be held:
  - Responsible or
  - Not Responsible
- A final letter is sent to both parties with the determination, recommended sanctions and a copy of the report
- Both parties can appeal the findings and the recommended sanction
Hearing

There are three types of hearing options offered under the Student Code of Conduct:

• Administrative hearing
• Student conduct board hearing
• TUAPA hearing (required by state law)
How Does the University Support Students?

There are a variety of supportive steps, called Interim Measures, that the University can take. They may include:

- Advocacy
- Academic support
- Counseling
- Safety escorts
- Campus support services
- Alternative Housing arrangements (if the student lives on campus)
- No-contact directives
- Work schedule changes (if the student works on campus).
How Will the University Support You?

- Remember to take care of yourself.
- Connect with resources like Survivor Advocacy Services.
- Utilize the employee assistance program (EAP) by calling 855-HERE4TN. You may receive up to 5 counseling sessions at no additional cost.
Why Is This Important?

Reported incidents:

- 2013: 19
- 2014: 42
- 2015: 56
- 2016: 153
- 2017: 192
Fall 2018 - Prevention

- Consent T-shirt giveaways
- Consent posters
- Reporting posters
- Events throughout the year, like Take Back the Night
- Title IX Coordinator and others are available to provide training to classes and student groups
- Red Zone information
What Is The Red Zone?

The “Red Zone” is the time-period from freshmen move in to Thanksgiving break. During this time, freshmen college students are at greater risk for sexual assault.

YOU ARE IN THE RED ZONE.

College freshmen are the most vulnerable to sexual assault from move-in until Thanksgiving break.
How Can I Help?

• Invite the Title IX Coordinator, or someone from the Center for Women and Gender Equity to talk with your classes.

• Know the resources that you can provide to students who report being victimized.

• Encourage students to participate in on-campus sexual assault prevention events like Take Back the Night.
Where Can I Go If I Have More Questions?

- UTC’s sexual misconduct, relationship violence and stalking prevention webpage is available at utc.edu/sexual-misconduct.
- On the website you will find information including:
  - How to get help
  - Information about UTC:
    - Campus climate survey results for 2015, 2016, 2017 and 2018
    - April 2018 campus report
  - How to file a report
  - Support and Resources
Contact Info

• Stephanie Rowland, Title IX Coordinator
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