

TITLE IX POLICY

ACA.EO.100.012

Policy Statement

The University of Mississippi adheres to the guidelines set forth by Title IX of the Education Amendments of 1972. Title IX prohibits discrimination based on sex in educational programs and activities. Conduct prohibited by Title IX also includes sexual assault, sexual harassment and other forms of nonconsensual sexual conduct. Title IX protects students, faculty, and staff alike, and applies to both men and women. This policy is in compliance with applicable legal requirements including Title IX of the Education Amendments of 1972; relevant provisions of the Violence Against Women Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; and other applicable federal and state laws.

It is the position of the University that Title IX violations in any form will not be excused or tolerated. Criminal, civil, and university disciplinary processes are available to students, faculty, and staff with a Title IX complaint. The University is committed to prompt, effective and fair procedures to investigate and adjudicate Title IX complaints and to the education of the University community about the importance of responding to all forms of prohibited conduct. Special emphasis is placed on the rights, needs, and privacy of the complainant, as well as those of the respondent. At the same time, the University adheres to all federal, state, and local requirements for intervention and crime reporting related to Title IX violations.

Purpose of Policy

The University of Mississippi is committed to fostering an environment that prevents discrimination, sexual harassment, and other unwelcome sexual contact of employees, students, applicants for admission or employment, visitors to campus, or third parties who are participants in University of Mississippi programs or activities. Students, faculty, and staff should be able to live, study, and work in an environment free from sexual misconduct. The purpose of this policy is to promote a community of learning dedicated to nurturing excellence and intellectual inquiry and provide students, faculty, and staff notice about their duty to respect the dignity of each person by refraining from prohibited behaviors. This policy outlines prohibited conduct, including sexual harassment and other types of sexual misconduct, as well as unlawful discrimination, disparate treatment, and relationship violence.

Discrimination and Disparate Treatment

The University of Mississippi does not unlawfully discriminate on the basis of race, color, gender, sex, pregnancy, sexual orientation, gender identity or expression, religion, citizenship, national origin, age, disability, veteran status, or genetic information. Further, both men and women are protected from sex discrimination and sex-based harassment.

Prohibited sex-based discrimination and harassment includes, without limitation, discrimination or harassment based on gender, gender identity, gender expression, pregnancy or childbirth. Educational decisions that cannot be based on sex include, without limitation, decisions relating to: admission, financial aid, academic advising and instruction, class assignments, evaluation and grading, discipline, housing, athletics, health and counseling services, recreational/residential/extracurricular services or programs, and participation and status in any University program or activity, whether on or off campus.

Employees, students, applicants for admission or employment, or other participants in University of Mississippi programs or activities who believe they have been discriminated against are entitled to seek relief through the EORC Office or Title IX Coordinator.

Sexual Harassment

Pursuant to Title IX, The University of Mississippi prohibits sexual harassment, sexual assault, and other forms of unwelcome sexual contact in order to protect students, faculty, and staff.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) Submission to or rejection of such conduct is either an explicit or implicit term or condition of, or is used as the basis for decisions affecting an individual's employment or advancement in employment, evaluation of academic work or advancement in an academic program, or basis for participation in any aspect of a University program or activity (**quid pro quo**); and/or (2) Such conduct has the purpose or effect of unreasonably interfering with an individual's access to the University or an individual's work environment or are so objectively offensive, pervasive, or severe that they effectively deny the victim access to the University of Mississippi's resources and opportunities (**hostile environment**).

A wide range of behaviors may qualify as sexual harassment, up to and including sexual assault. Some types of actions that may rise to the above level and constitute sexual harassment include:

- treating others differently based on their gender, sex, sexual orientation, gender identity or gender expression
- verbal harassment or abuse of a sexual nature
- subtle pressure for sexual activity
- sexist remarks about a person's clothing, body, or sexual activities
- unwanted touching, patting, or pinching
- demanding sexual favors accompanied by implied or overt threats concerning one's job or working conditions
- inappropriate display of sexually suggestive or pornographic materials
- sexual assault or other types of sexual violence

Other Sexual Misconduct

In addition to sexual harassment, The University of Mississippi also prohibits other forms of sexual misconduct, or any sexual behavior that was committed without effective consent. Sexual misconduct may vary in its severity and consists of a range of behaviors. These behaviors are serious violations and represent a threat to the safety of the University community. The requirements of this policy apply regardless of the sexual orientation and/or sexual identity of individuals engaging in sexual activity. The following descriptions represent sexual behaviors that violate The University of Mississippi's community standards and values of respect, civility, and personal integrity.

- 1. Sexual Penetration:** Sexual intercourse, or sexual penetration, however slight, with any object or body part without effective consent.
- 2. Sexual Touching:** Any intentional touching of intimate body parts without effective consent. Sexual touching includes bodily contact or contact made with an object.
- 3. Sexual Exploitation:** Sexual exploitation occurs when any student or employee takes non-consensual, unfair, or abusive advantage of another sexually for his or her own advantage or benefit, even though that behavior does not constitute one of the other sexual misconduct offenses. Examples include, but are not limited to:
 - Non-consensual videotaping, audiotaping, or photographing of sexual activity even if the sexual act is consensual.
 - Non-consensual posting, publishing, sharing, or displaying photo, audio, or video of sexual activity even if the activity was originally recorded with effective consent.
 - Voyeurism is a form of sexual exploitation in which one individual engages in secretive observation or non-consensual video or audio taping of another for personal sexual pleasure.
 - Any disrobing of another or exposure to another without effective consent.
- 4. Attempted Act/Accomplice to Sexual Misconduct:** Attempts to commit sexual misconduct are also prohibited under this policy, as is aiding in the commission of sexual misconduct as an accomplice.
- 5. Use of Drugs and/or Alcohol to Induce Incapacity:** This policy also prohibits sexual activity or attempted sexual activity with someone whose incapacity results from the taking of a drug or alcohol. Possession, use, and/or distribution of any **“date-rape” drug or licit or illicit substances** are prohibited, and administering or attempting to administer any of these drugs or substances, including alcohol, to someone else for the purpose of inducing incapacity is a violation of this policy. An individual may be charged with a violation of this policy even if no sexual activity took place.

Other Title IX violations include stalking, relationship violence and retaliation, which are defined below.

Stalking, Including Cyber-Stalking

In honor of academic freedom, civility, and the respect for the dignity of each person, students will refrain from a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety, the safety of others, or suffer substantial emotional distress. This policy will not be construed to impair any constitutionally protected activity, including speech, protest, or assembly. When such conduct includes expression or speech, the conduct must be more than merely offensive; it must be so objectively offensive, pervasive, and/or severe that if repeated it would effectively deny the victim access to the University's resources and opportunities, unreasonably interfere with the victim's work or living environment, or deprive the victim of some other protected right. Students who act inconsistently with this value and policy will be subject to conduct charges and proceedings.

Relationship Violence

The University prohibits any physical, sexual, or psychologically abusive behaviors used by an individual against a partner or former partner in an intimate relationship. The use of alcohol or drugs, by either party, in conjunction with an incident of relationship violence, does not alleviate responsibility or diminish the serious nature of the offense.

Forms of relationship violence may include, but are not limited to:

- Actions that are intended to cause bodily injury.
- Threats or actions that cause reasonable fear of harm on the part of the victim, or threaten children or pets.
- Assault with or without a weapon.
- Psychological abuse.

Retaliation

Retaliation against an individual who initiates a Title IX complaint, participates in an investigation, or pursues legal action, is prohibited. The University defines retaliation as any adverse action (including intimidation) taken against an individual who has participated in any manner in an investigation, proceeding, or hearing under these policies and procedures. Retaliation may occur in person or electronically.

Independent action may be taken against anyone engaging in retaliation including individuals who are acting on behalf of the respondent or complainant, with or without the knowledge of the complainant or respondent.

In an effort to avoid retaliation, prevent recurrence of any discrimination or discriminatory effects, and provide for the safety of the all parties, the University will implement all necessary remedies during an investigation period and/or at the conclusion of an investigation. These remedies may include, but are not limited to: academic accommodations, “no contact” letters, changes in course schedules, and changes in housing assignments.

Consent

Sexual intimacy requires that all participants consent to the activity. Effective consent is the basis of this policy because effective consent maintains the value that all persons have the right to feel respected, acknowledged, and safe during sexual activity. Consent between two or more people is defined as an affirmative agreement – through clear actions or words – to engage in sexual activity. The person giving the consent must act freely, voluntarily, and with an understanding of his or her actions when giving the consent.

Lack of protest or resistance does not constitute consent, nor does silence mean consent has been given. Relying solely on non-verbal communication can lead to misunderstanding. Persons who want to engage in sexual activity are responsible for obtaining consent – it should never be assumed.

A prior relationship or prior sexual activity is not sufficient to demonstrate consent.

Consent must be present throughout the sexual activity – at any time, a participant can communicate that he or she no longer consents to continuing the activity. If there is confusion as to whether anyone has consented or continues to consent to sexual activity, it is essential that the participants stop the activity until the confusion can be clearly resolved.

Effective consent cannot result from force, or threat of force, coercion, fraud or intimidation. In addition, an incapacitated person is not able to give consent. The use of force to obtain sexual access or to induce consent violates this policy whether the force is physical in nature, violent, or involves threats, intimidation or coercion.

- Physical force includes but is not limited to: hitting, kicking, and restraining. Physical force means someone is physically exerting control of another person through violence.
- Threatening someone to obtain consent for a sexual act is a violation of this policy. Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual activity to which he or she otherwise would not have consented.
- Intimidation is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though there may not be any threat made explicitly or physical force. Intimidation is evaluated based on the intensity, frequency, or duration of the comments or actions.

- **Incapacitation:** It is a violation of this policy if the initiator has sex with someone the initiator knows, or reasonably should know, to be incapacitated by alcohol, drugs, sleep or illness. A person who is unconscious, unaware, or otherwise physically helpless cannot give effective consent to sexual activity. Someone is incapacitated when he or she cannot understand who, what, when, where, why, or how, with respect to the sexual interaction.
- **Age of Consent:** According to Mississippi Code §97-3-65, effective consent can never be given by persons under the age of 14. Students who are at least 17 years old cannot receive effective consent from anyone between the ages of 14 and 16, if they are younger by more than 36 months. Further, under Mississippi Code §97-3-95, a student under the age of 18 cannot give effective consent to anyone in a position of trust or authority over the student, including, without limitation: the child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

Consensual Relationships

UM's policy concerning consensual relationships may be found at ACA.EO.100.011.

Privacy

The University of Mississippi has great respect for the privacy of the parties in a complaint. Under federal law, however, responsible employees who receive a report of sexual misconduct must share that information with the Title IX Coordinator unless otherwise exempt by state or federal law or University policy. Those individuals may need to act to maintain campus safety and must determine whether to investigate further under Title IX, regardless of the complainant's request for confidentiality.

After a report is received, the complainant will decide whether to pursue an investigation through the Title IX office. If a complainant requests confidentiality or asks that the complaint not be pursued, the Title IX Coordinator will take all reasonable steps to investigate and respond to the complaint consistent with the complainant's request; however, the Title IX Coordinator may determine that the circumstances of the incident are so severe or that the circumstances otherwise indicate there is an ongoing danger to the complainant and/or members of the University community such that action must be taken on the part of the University beyond the action requested by the complainant. When determining whether to proceed without cooperation from the complainant, the Title IX Coordinator will weigh a number of factors. Examples of factors the Title IX Coordinator will consider are the following: the risk of the respondent committing additional acts; if the respondent has threatened to commit additional acts; if other complaints have been reported about the same respondent; if the complaint involves multiple respondents; the respondent's history of arrests or other conduct records; the involvement of a weapon; the ages of the complainant and respondent; whether the respondent is in a position of authority over the

complainant, and the university's ability to move forward with the investigation without the complainant.

If the Title IX Coordinator moves forward with the investigation, with or without the complainant's participation, information will only be shared with those individuals who are responsible for handling the school's response to the complaint and those necessary to the investigation. The Title IX Coordinator will inform the complainant, to the extent possible, of individuals with whom information about the complaint will be shared.

Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs" or other forums in which students disclose incidents of sexual violence, are not considered notice to the University of sexual violence for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the University will provide information about students' Title IX rights at these events.

Violence Prevention

The University is committed to an environment where all members utilize bystander intervention to prevent and end violence on campus and in the community. The University presents programming on prevention of sexual misconduct, relationship violence, and stalking to all students, staff and faculty at orientation and throughout the year. The University also educates all its members on awareness and intervention related to sexual misconduct, relationship violence and stalking. Education includes University policy, state criminal laws, Title IX and federal laws, the impact of trauma, how to recognize and respond to incidents and the importance of reporting incidents. The University mandates training for all incoming students to increase awareness and foster prevention. The University also mandates training for all staff and faculty.

Individuals who work or volunteer in the on campus Violence Prevention Office, including front desk staff and students, can generally talk to a complainant without revealing any personally identifying information about an incident to the University. A complainant can seek assistance and support from these individuals without triggering a University investigation that could reveal the complainant's identity or that the complainant has disclosed the incident.

For a listing of available resources, please visit the website <http://umsafe.olemiss.edu>. To request an educational program, contact the Violence Prevention Office at 915-1059.

Reporting

Community members who believe that they have experienced a potential Title IX violation from a student may submit a complaint against the respondent in writing or in person to the Title IX Coordinator, 270 D Martindale Hall (915-7045). Any University faculty or staff member, except those who work or volunteer in the on campus Violence Prevention Office and those with statutory privilege, including but not limited to those providing counseling or health care services through the University Counseling Center, Student Health Services, and/or Psychological Services Center,

who is notified by a student of a Title IX incident by another student is to report the incident immediately (but not later than three calendar days) to the Title IX Coordinator.

While maintaining a complainant's confidentiality, the Violence Prevention Office must report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the complainant – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the complainant to ensure that no personally identifying details are shared with the Title IX Coordinator.

Interim Steps

The investigation into a Title IX complaint is only one part of the University's prompt and effective response on behalf of the complainant. The Title IX Coordinator may recommend immediate implementation of additional steps to provide for the safety of the complainant or others, to avoid possible retaliation, or to prevent further occurrence of any discrimination or discriminatory effects. These steps may include, but are not limited to academic accommodations; "no contact" letters; changes in course schedules and changes in housing assignments; and disability, health, and/or mental health services. Any such interim step taken by the Title IX Coordinator is not appealable, but such steps may be modified by the Title IX Coordinator at any time.

Student Procedures

The University of Mississippi strives to create a respectful, safe, and non-threatening environment for its students. The policy which establishes procedures for responding to sexual misconduct incidents where the complainant and/or respondent is a student may be found at DCA.SC.200.075.

Faculty/Staff Procedures

Title IX complaints in which the complainant and/or respondent is a faculty or staff member are governed by the University's Sexual Harassment policy and procedures and may be found at ACA.EO.100.010.

Contact Information

The University's Title IX Coordinator oversees policies and procedures that apply to complaints alleging sex discrimination (including sexual harassment, sexual assault, and sexual violence) by employees, students or third parties. Responsibilities performed in this policy by "the Title IX Coordinator" may be performed by the Title IX Coordinator, or by another University employee trained by, and acting under the supervision of, the Title IX Coordinator. Contact information for The University of Mississippi's Title IX Coordinator is listed below.

Honey Ussery
Title IX Coordinator Post Office Box 1848
270 D Martindale Student Services Center
662.915.7045
Fax:662.915.1229
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