



Duty to Report Sexual Offenses

Senate Bill 212, enacted by the 86th Texas Legislature, creates reporting requirements related to sexual assault, sexual harassment, dating violence, and stalking on university campuses. The changes mandated by this legislation are required to be implemented on or before January 1, 2020.

Requirements for Employees

An employee of a university who, in the course of employment, witnesses or receives information regarding an incident, regardless of where the incident occurred, that the employee reasonably believes constitutes sexual assault, sexual harassment, dating violence, or stalking must report the incident to the university's [Title IX Coordinator](#) or to a deputy Title IX Coordinator. Such report must include all information known.

There are three exceptions to this rule. First, if the employee is a victim related to the incident in question, the employee does not have to report. Second, if a disclosure is made at a "public sexual assault awareness activity," the employee is not required to report. Third, an employee designated by the university as a confidential resource (counseling staff, clergy, etc.), an employee who receives information under circumstances protected by other law, or an employee serving as a medical provider must report the type of incident that occurred, but may withhold private information.

Requirements for the Title IX Coordinator

The Title IX coordinator must submit to the President of the university a quarterly summary of the details of all reports, including investigation and disposition of those reports. An immediate report must be made if there is a possibility of imminent danger.

Requirements for the President

The President of the university must make a report once annually to the Board of Trustees summarizing reports received from the Title IX Coordinator. The report to the Board must be posted on the university's website and must include the number of reports received, investigations conducted, and dispositions, without identifying any person. The President further must certify annually to the Texas Higher Education Coordinating Board that the university is in substantial compliance, subject to an administrative penalty.

Civil/Criminal Penalties

A person who reports an incident in good faith, and who is not the perpetrator of the incident, is immune from civil or criminal liability and disciplinary action for violations reasonably related to the

incident. However, failure of an employee/Title IX coordinator to make a required report without good cause or with intent to harm/deceive is a misdemeanor.

Institutional Responsibilities

A university must terminate an employee who fails to make a required report, in accordance with the university's disciplinary policies. The university cannot discipline an employee who makes a report/participates in an investigation in good faith.

Additionally, the identity of a victim is confidential under the Public Information Act and may only be disclosed to persons necessary to the investigation, persons necessary to provide medical services, alleged perpetrators, and potential witnesses.

Implications for SMU Employees

If, in the course of your employment, you witness or receive any information which might be related to an incident of sexual assault, sexual harassment, dating violence, or stalking, it is mandatory that you make a report to SMU's Office of Institutional Access and Equity:

- In person: Perkins Administration Building, Room 204
- By email: accessequity@smu.edu
- By phone: 214-768-3601

Failure to make a report may result in criminal penalties and/or termination of employment.

Accordingly, [SMU Policy 3.3](#) (Title IX Harassment) and [SMU Policy 9.8](#) (Violence on Campus and Threat Assessment) have been amended to comply with this legislation. Also, the [procedures](#) relating to SMU Policy 7.23 (Personal Conduct) have been amended on the Human Resources website.

Do not hesitate to contact the SMU Office of Legal Affairs if you have a question regarding this legislation.

Revised: February 26, 2020