

Articles I-III

ARTICLE I. RELATIONSHIP BETWEEN THE UNIVERSITY AND STUDENTS

Under the concept of in loco parentis, universities generally were viewed as standing in the place of students' parents, and courts gave universities a great deal of discretion in disciplining students pursuant to such parent/child relationships. During the 1960's, however, the law moved away from the concept of in loco parentis, and the relationship between the students and a university is now considered contractual. The existence of regulations regarding student conduct does not place the University in a custodial relationship with its students or impose upon the University a duty to protect students from proscribed acts. All students who have reached the age of majority are responsible for their own actions.

Students and student organizations are not agents of the University and may not act on behalf of the University unless specifically and expressly authorized to do so by established policy or in writing by the University President, the Provost, or appropriate vice president.

ARTICLE II. RESPONSIBILITIES AND RIGHTS

SECTION II-1 Responsibilities of Students

As members of the academic community at Utah State University, students share responsibility for its growth and continued well-being and for maintaining an environment which encourages free inquiry and expression. Students are expected to engage in reasonable and substantial preparation for their coursework, to follow course and class guidelines as set forth in syllabi and as enunciated by their instructors, and to complete all academic exercises with integrity. All interactions with faculty members, staff members, and other students shall be conducted with courtesy, civility, decency, and a concern for personal dignity. These responsibilities are the foundation of the University's Standards of conduct (Student Conduct--see: [Article V](#), Academic Integrity--see: [Article VI](#)). The University seeks to vest students with primary oversight of these responsibilities through their participation in hearings boards.

SECTION II-2 Rights of Students

Students can reasonably expect the following:

- A. The right to a learning environment free of harassment and unlawful discrimination.
- B. The right to due process in all academic integrity and disciplinary proceedings, which means fundamental and procedural fairness in accordance with the provisions of this Student Code.
- C. The right to inquire, including specifically the right to engage in reasonable academic discussion and dissent within the framework of course material, with due regard to factors such as class size and the limits on the instructor's time for conferences.
- D. The right, subject to time, place, and manner restrictions, to express personal opinions on campus, to support or oppose causes, to arrange public assemblies, and to hold rallies, demonstrations, and pickets which do not materially and substantially interfere with normal University activities or the rights of others. Institutional control of facilities shall not be used as a censorship device. Any institutional regulation regarding time, place, and manner of expression must be content-neutral, must be narrowly tailored to serve a significant University interest, and must leave open ample alternative channels of communication.
- E. The right to organize and the freedom of association.
- F. The right to publish and the freedom from censorship.

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- I. The right to confidentiality of records and due limitation of disclosure of personally identifiable information.

SECTION II-3 Confidential Resources and Requests for Confidentiality

Policy

Any student who has experienced sexual misconduct may seek assistance and support from a confidential resource (defined below) provided by the University, while maintaining confidentiality for the information they share and without triggering University action.

Additionally, any student, third party, or bystander may request that information shared with a non-confidential resource remain confidential and/or anonymous as defined by this policy. The University will balance all requests for confidentiality against the University's responsibility to protect the health and safety of the individual student and the University community.

A. References

- I. Title IX of the Higher Education Amendments of 1972 and guidance from the Department of Education's Office of Civil Rights for implementing Title IX
- II. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- III. FERPA

B. DEFINITIONS: Roles

- I. Responsible Employees are University employees who have the authority to redress sexual violence, who have the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. These individuals are also referred to as Mandatory Reporters in other University policies and materials.
- II. Non-professional Counselors and Advocates are individuals who work or volunteer in the on-campus SAAVI office, including front desk staff and students. These individuals can generally talk to a victim without revealing any personally identifying information about an incident to the University.
- III. Professional Counselors are licensed or certified counselors (including those who act in that role under the supervision of a licensed counselor) who provide mental health counseling to members of the school community, such as Counseling and Psychological Services (CAPS) and the Student Health and Wellness Center. These counselors and/or medical professionals are not required to report any information about an incident to the Title IX coordinator without a victim's permission.

C. DEFINITIONS: Terms

- I. Confidentiality means that information shared by an individual cannot be revealed to any other person without the express permission of the individual, or as otherwise permitted or required by law. Confidential resources are prohibited from breaking confidentiality unless (1) given permission to do so by the person who disclosed the information; (2) there is an imminent threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the age of 18; or (4) as otherwise required or permitted by law or court order.
- II. Privacy means that information about an incident of sexual misconduct will be shared with a limited circle of University employees who need to know only to assist in the assessment, investigation, and resolution of the report.

D. Provisions

I. Disclosure to Confidential Resources

- a. Professional Counselors. A student who has experienced sexual misconduct may seek assistance and support from a Professional Counselor. Professional Counselors are not required to report any information that the student might share about an incident to the University, including the Title IX Coordinator, without the student's permission. Information disclosed to a Professional Counselor will not trigger University action. Additional information about Professional Counselor services may be found here:

- i. [Counseling and Psychological Services \(CAPS\)](#)
- ii. [Student Health and Wellness Center](#)
- iii. [USU Eastern Student Counseling Office](#)

- b. Non-professional Counselors and Advocates. A student who has experienced sexual misconduct may also seek assistance from a non-professional counselor or advocate, including individuals who work or volunteer in the on-campus Sexual Assault and Anti-Violence Information Office (SAAVI). Non-professional counselors and advocates can provide support and advocacy services without revealing any personally identifying information about an incident to the University. Non-professional counselors and advocates are required to provide information about the date and location of reported events to the Title IX Coordinator so that the Title IX Coordinator can track patterns and trends in the campus community; this information will not trigger formal University action. Additional information about non-professional counselors and advocate services may be found here:

- i. [Sexual Assault and Anti-Violence Information Office \(SAAVI\)](#)

- c. NOTE: Religious organizations who may associate with the University are not required to report to the University instances of sexual misconduct that comes to their attention.

II. Disclosure to Non-Confidential Resources

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of sexual misconduct to the Title IX Coordinator. At all times, the Title IX Coordinator and the Responsible Employee will make every effort to respect and safeguard the privacy (as defined by this policy) of the individuals involved.

b. Requests for Confidentiality

- i. If a student who has experienced sexual misconduct discloses information about the incident to a Responsible Employee, but wishes to maintain confidentiality, or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students, including the reporting student.
- ii. If the University honors the request for confidentiality, the reporting student must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited. Even so, counselors and advocates will still assist the victim in receiving other necessary protection and support, such as academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.
- iii. A victim who requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. However, to promote timely and effective review, the University strongly encourages individuals to report possible sexual misconduct within 180 calendar days of the last occurrence of the conduct. A report made after 180 days may make it more difficult to gather relevant and reliable information.

c. Determining Factors in Upholding Confidentiality

- i. When a student who has provided information regarding an incident of sexual misconduct to a Responsible Employee requests confidentiality, the Title IX Coordinator will refer the request to a review panel comprised of the Title IX Coordinator and additional trained faculty or staff members as determined by the Title IX Coordinator. When weighing a victim's request for confidentiality, or requests that no investigation or discipline be pursued, the Review Panel will consider a range of factors, including the following:
 1. The increased risk that the alleged perpetrator will commit additional acts of sexual misconduct or other violence, such as:
 - a. whether there have been other sexual violence complaints about the same alleged perpetrator;
 - b. whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - c. whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
 - d. whether the sexual violence was committed by multiple perpetrators;
 - e. whether the sexual violence was perpetrated with a weapon;
 - f. whether the victim is a minor;
 - g. whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence); and/or
 - h. whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.
 - ii. The presence of one or more of these factors could lead the review panel to override the student's request for confidentiality and recommend that the University investigate and, if appropriate, pursue disciplinary action related to the reported incident of sexual misconduct. If none of the factors identified above is present, the review panel will likely respect the victim's request for confidentiality.
 - iii. If the Review Panel determines that the University cannot maintain a student's request for confidentiality, the University will inform the student prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response.
 - iv. If the Review Panel determines that the University can respect a student's request for confidentiality, the University will also take immediate action as necessary to protect and assist the affected student.

III. Anonymous Reporting

- a. Any individual may make a report of sexual misconduct to the University without disclosing one's name. Anonymous reporting systems are in place and can be accessed here: <https://equity.usu.edu/>, or: <https://www.usu.edu/intervention/reporting>. However, anonymous reports are not considered notice by the University. Depending on the level of information available about the incident or the individuals involved, the University's ability to respond to an anonymous report may be limited.
- b. Once an anonymous report is submitted, it will be directed to the University's Title IX Coordinator, who will review the information provided and determine whether further action is possible and necessary in order to protect the health and safety of affected individuals and the University community, which includes pattern tracking.
 - i. When an anonymous report can be linked to an identifiable person, the Title IX Coordinator will follow-up with the reporting party and/or alleged victim, but that follow-up will be for the provision of remedies and resources only.
 - ii. An anonymous report can give rise to a timely warning, required by the Clery Act, which will not include any

- a. Understanding the options available to them for the disclosure of information about alleged sexual misconduct (i.e., understanding the differences between Confidential Employees and Responsible Employees) and understanding the University's obligation to respond to such disclosures;
 - b. Understanding the University's process for evaluating requests (a) that their names and any other personally identifying information not be shared with the Respondent or others, (b) that no investigation be pursued, and/or (c) that no disciplinary action be taken; and
 - c. Requesting remedial and protective measures from one of the Deputy Title IX Coordinators, as needed.
- II. Responsible Employees are responsible for:
- a. Communicating to students who are considering disclosing or have disclosed information about alleged sexual misconduct that, as Responsible Employees, they are required to report such information to the University.
 - b. Reporting information they receive about alleged sexual misconduct promptly through <https://equity.usu.edu/>.
 - c. Completing all applicable University training on reporting requirements and staying current on training requirements; and
 - d. Contacting the Title IX Coordinator with questions or concerns.
- III. Confidential Employees are responsible for:
- a. Communicating to students who are considering disclosing or have disclosed information about alleged sexual misconduct that, except in the limited circumstances described in this Policy, the information they have disclosed will not be shared with the Title IX Coordinator and that the University will therefore be unable to use such information to investigate the alleged sexual misconduct or to pursue disciplinary action against the Respondent;
 - b. Understanding and providing information about available resources and support services;
 - c. Supporting students who, following an initial confidential disclosure, decide to make a report to the University and/or local law enforcement, by directing such students to the appropriate University resources for assistance with such filing or further reporting; and
 - d. Serving as a resource to University employees regarding their responsibilities with respect to reporting alleged sexual misconduct.
- IV. The Title IX Coordinator is responsible for:
- a. Tracking changes in state and federal law which may require conforming modifications to this Policy and associated procedures and ensuring that the University's policies and procedures for reporting of sexual misconduct disclosures are current. The Title IX Coordinator will work closely with the Office of University Counsel in this regard;
 - b. Communicating with other University offices or units, as appropriate, to verify that all parties receive any necessary information, assistance and support, including appropriate remedial and protective measures;
 - c. Monitoring institutional compliance with this Policy, including required training; and
 - d. Serving as a resource to University employees regarding their responsibilities with respect to reporting alleged sexual misconduct;
 - e. Providing support and training to the Deputy Title IX Coordinators.

SECTION II-4 Amnesty for Seeking Medical Attention and Reporting Sexual Misconduct

A. Policy

The health and safety of every student in the Utah State University community is a primary concern. To ensure the safety and well-being of all USU students, students must seek immediate medical attention and law enforcement assistance for themselves or others when someone's health and/or safety is at risk. Students may be reluctant to seek assistance for themselves or someone else for fear of facing disciplinary action from the Office of Student Conduct for violations of the USU Student Code. By granting amnesty for alcohol and drug-related student code violations, the University seeks to remove barriers that prevent students from seeking needed medical attention for themselves or others.

Under this policy, if an individual, including a bystander, seeks medical attention or reports an incident of sexual misconduct, in good faith, the reporting party will not be subject to disciplinary action for a separate University policy violation, such as underage drinking, that is revealed in the course of the report.

B. References

- Utah Code section 32B-4-423, Immunity regarding alcohol consumption offenses when seeking emergency aid for another person.
- Title IX of the Higher Education Amendments of 1972 and guidance from the Department of Education's Office of Civil Rights for implementing Title IX
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

C. Provisions

Note: This Policy only provides amnesty from violations of the Utah State University Student Code of Conduct. It does not grant amnesty for criminal, civil, or legal consequences for violations of Federal, State, or Local law. For information regarding immunity from alcohol-related criminal offenses, please see Utah Code section 32B-4-423

- a. USU recognizes that a student who has been drinking and/or using drugs and is then either a victim of violence or observes a violent act against another person—including but not limited to domestic violence, dating violence, stalking, or sexual assault— may be hesitant to report the incident due to fear of being punished for their own conduct. USU strongly encourages students to report all incidents of violence. A victim or bystander acting in good faith to report any incident of violence to USU officials or to police will not be subject to Utah State University Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the incident being reported.
2. Medical Amnesty
 - a. Students who seek emergency medical attention for themselves, or for someone else, related to consumption of drugs or alcohol will not be charged with violations of the Utah State University Student Code of Conduct related to that consumption (specifically: [Art V, Section V-3.](#), B.1,2), provided that the student subsequently completes an evaluation and any recommended treatment at the USU Student Health and Wellness Center within a reasonable time frame to be determined by the Office of Student Conduct. Failure to complete this evaluation/treatment may result in charges being filed with the Office of Student Conduct.
 - b. Members of student organizations are required to seek immediate medical assistance for other members or for guests when any potential health risk is observed, including medical emergencies related to the use of alcohol and/or drugs. A member of a student organization who seeks immediate assistance from appropriate sources will not be charged with violations of the Utah State University Student Code of Conduct related to providing alcohol.
 3. Exceptions to Amnesty
 - a. Amnesty does not apply to students who are in violation of USU alcohol and drug policies, and who come into contact with law enforcement, faculty, administrative staff, residence hall staff, or other university employees when such contact is initiated by law enforcement, faculty, administrative staff, residence hall staff, or other university employees.
 - b. Amnesty is not intended to shield or protect students or organizations that repeatedly violate the Utah State University Student Code of Conduct or that endanger the health and safety of others. In cases where egregious or repeated violations of the Utah State University Student Code of Conduct occur, the University reserves the right to take judicial action on a case by case basis regardless of the manner in which the incident was reported. Additionally, the University reserves the right to adjudicate violations of the Utah State University Student Code of Conduct unrelated to alcohol or drug use, such as [Art IV, Section IV-2.A-I](#), [Art V, Section V-3](#).

ARTICLE III. PROCEDURES FOR FREEDOM OF EXPRESSION

SECTION III-1 Demonstrations and Distribution of Literature

- A. Students, student organizations, and nonstudent individuals or groups sponsored by students/student organizations desiring to demonstrate, picket, or distribute literature on the campus are encouraged to file a written request with the Vice President for Student Affairs indicating the preferred time, place, and manner of such activity. The request may be filed at least 24 hours before the activity commences. Those involved shall abide by the regulations listed in paragraph B. Where it is deemed necessary, the Vice President for Student Affairs shall provide for security.
- B. Students, student organizations, and nonstudent individuals or groups sponsored by students/student organizations, may demonstrate, picket, or distribute literature on the campus in areas generally available to the public; provided that such demonstrators, picketers, or distributors do not or do not attempt to:
 1. Breach the peace.
 2. Physically obstruct pedestrian traffic.
 3. Physically obstruct vehicular traffic.
 4. Interfere with classes or other scheduled meetings.
 5. Damage University property.
 6. Discard banners, placards, picket signs, leaflets, pamphlets, handbills, or other literature or materials in a manner which litters University property.
 7. Permanently occupy land areas or permanently locate signs and posters.
 8. Erect structures, shelters, or camps.
 9. Sleep overnight on University property.
 10. Threaten or endanger the health or safety of any person.

SECTION III-2. Posters and Bulletin Boards

1. Students can reasonably expect the following: The Vice President for Student Affairs shall ensure that space is available on campus for posters. Students desiring to display posters in the Taggart Student Center shall confer with the Director of the

board may give permission for the display of student posters.

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