

MAKING IT CLEAR

*TITLE IX / SEXUAL MISCONDUCT
POLICIES AND INVESTIGATIONS*

Honey Ussery
Associate Director of EORC
Title IX Coordinator
University of Mississippi

AGENDA

- Key terms: Current vs. 2024 Regs
- Newly-defined term: 2024 Regs
- Violations & definitions
 - Sexual Harassment vs. Sex Based Harassment
 - Specific Offenses
- Making your investigation process clear
- Choosing an investigative model
- Communicating with stakeholders



KEY TERMS

CURRENT KEY TERMS

- **Formal Complaint:** a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.
- **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

KEY TERMS: 2024 REGS

- **Complaint:** an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or this part.
- **Complainant:** (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.
- **Respondent:** a person who is alleged to have violated the recipient's prohibition on sex discrimination.

NEWLY DEFINED TERM: 2024 REGS

- **Confidential Employee:** An employee of a recipient whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; (2) An employee of a recipient whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or (3) An employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.



VIOLETIONS & DEFINITIONS

2020 DEFINITION

Sexual harassment: conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

2024 DEFINITION

Sex-based harassment: sexual harassment and other harassment on the basis of sex, that is:

1. Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
2. Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). [...] or
3. Specific Offenses

The background of the slide is a photograph of a campus. On the left, there is a large, leafy tree in the foreground, with a multi-story building visible behind it. On the right, a classical building with a portico supported by white columns is visible. The foreground is a well-maintained green lawn with shadows cast by trees off-camera. The entire image is overlaid with a white rectangular frame that contains the text.

SPECIFIC OFFENSES

SPECIFIC OFFENSES

Sexual assault: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

SPECIFIC OFFENSES

Dating Violence: violence committed by a person -

- A. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- B. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (1) The length of the relationship;
 - (2) The type of relationship;
 - and (3) The frequency of interaction between the persons involved in the relationship;

SPECIFIC OFFENSES

***Domestic Violence:** felony or misdemeanor crimes committed by a person who:

- A. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- B. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- C. Shares a child in common with the victim; or
- D. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction

SPECIFIC OFFENSES

Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- A. Fear for the person's safety or the safety of others; or
- B. Suffer substantial emotional distress.



**MAKING YOUR
INVESTIGATION
PROCESS CLEAR**

INVESTIGATION PROCESS

Advisors

- Each party is entitled to an advisor of their choice, who may be, but is not required to be, an attorney, present throughout the entire grievance process.
- If a party does not have an advisor present at the live hearing, the University must provide them with an advisor of the University's choice at no cost or fee.*

INVESTIGATION PROCESS POLICY EXAMPLE

Interviews

- Title IX Investigator(s) will attempt to interview the complainant and the respondent of the alleged incident.
- Title IX Investigator(s) will request from both parties any information and evidence that is directly related* to the allegations under investigation, including the names of potential witnesses to interview.
- The complainant and respondent have equal opportunity to present witnesses during the investigation process, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- Both parties can discuss the allegations under investigation with the Title IX Investigator(s), to gather and present relevant evidence.
- Complainant and the respondent will be given the same opportunity to have others present during any meeting that takes place during the investigation process, which includes the opportunity to be accompanied by an advisor of their choice or an advisor provided by the University.
- Title IX Investigator(s) will not make determinations regarding credibility of the parties or witnesses, and will objectively evaluate evidence. ****

INVESTIGATION PROCESS POLICY EXAMPLE

Evidence

- Title IX Investigator(s) will provide both parties equal opportunity to inspect and review evidence obtained as part of the investigation
- Evidence must be directly related* to the allegations raised in the formal complaint
- First Draft of the complaint includes evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence before the conclusion of the investigation.*
- Common examples:
 - Text messages
 - Social media
 - Video footage
 - Surveillance footage

INVESTIGATION PROCESS POLICY EXAMPLE

Investigative Report

- Prior to completion of the investigative report, the Title IX Investigator(s) will send to each party and the party's advisor the evidence subject to inspection and review.*
- Parties will have ten (10) business days to submit a written response, which the Investigator will consider prior to completion of the investigative report.*
- Title IX Investigator(s) will consider the parties' written responses, if any, at the conclusion of the investigation process.*
- Title IX Investigator(s) will create an investigative report that fairly summarizes relevant evidence.
- The report will not contain findings of fact as to whether a Title IX violation did or did not occur but will instead contain a summary of the investigation and all relevant documents submitted by the parties and potential witnesses. ****
- The Title IX Coordinator and/or Title IX Investigator(s) will determine whether a piece of evidence is relevant and thus included in the investigative report.



CHOOSING AN INVESTIGATIVE MODEL FOR 2024

CHOOSING AN INVESTIGATIVE MODEL

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TWO OPTIONS.

1. Single Investigator Model

- Efficient
 - Investigator has comprehensive knowledge of case, start to finish
 - Cost effective
- BUT**
- Investigators can become overly familiar w/ stakeholders and comprehensive knowledge
 - Places burden / liability on single employee

2. Independent Decision-Maker Model

- Less risk of bias
 - Singularity of role means less confusion for IDM
 - IDM views report / hearing with “fresh eyes”
- BUT**
- Less familiarity with nuances of case
 - Added expenses
 - Additional req'd trainings

CHOOSING AN INVESTIGATIVE MODEL

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Follow your policies!



COMMUNICATING WITH STAKEHOLDERS

COMMUNICATING WITH STAKEHOLDERS

- Trainings
- FAQs
- Resource Packets
- Websites
- Reporting charts

Title IX Reporting Process for Faculty/Staff

If this is an **emergency** and a student is in immediate danger, call 911 or the University Police Department at 662-915-7234.

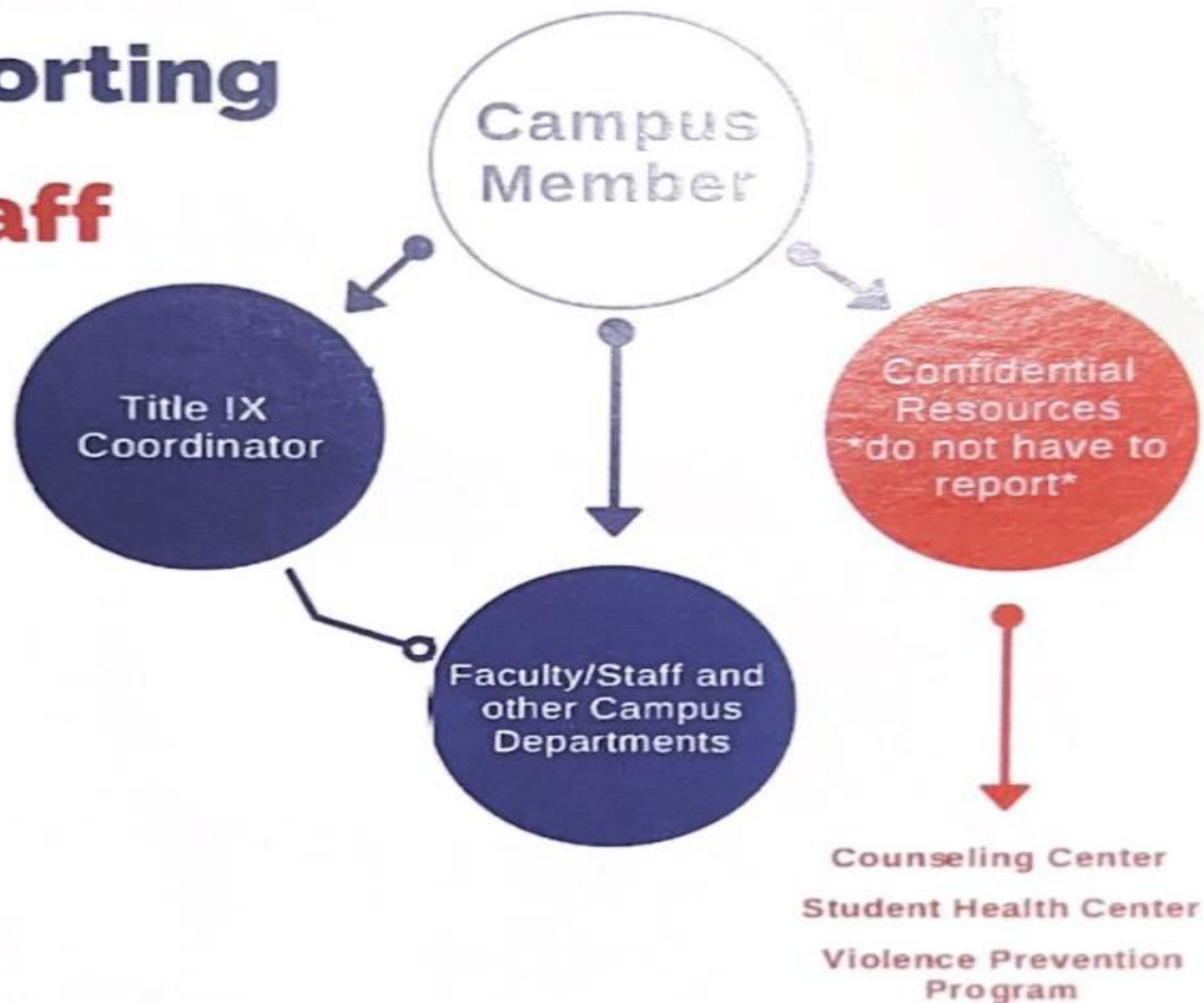
Otherwise, campus members are strongly encouraged to report Title IX occurrences **directly** to the Title IX coordinator, Honey Ussery.

If a person is not comfortable reporting directly to the above resource, they may disclose Title IX information to you as a known faculty/staff member.

The resources on campus shaded in **BLUE** are required to report all Title IX-related information (past or present, on campus or off campus) to the Title IX coordinator.

The members of campus shaded in **RED** are **CONFIDENTIAL** resources and are not required to report information to Title IX.

www.UMSAFE.olemiss.edu



**Title IX Coordinator
EO/RC**

Honey Ussery
120 Lester Hall
662-915-7045

TITLE IX

Lester Hall -3rd Floor
662-915-3784

COUNSELING

- Confidential Resource
- Appointments made by phone
- Triage appointments are available Monday-Friday from 12:00pm-4:15pm

Faculty/Staff

Title IX Pocket Guide

Campus Contacts and Resources

STUDENT HEALTH

Monday-Thursday
8:00am-5:00pm
Friday
9:00am-5:00pm
662-915-7274

- Confidential resource
- Certified to collect rape kits
- Does not cost money
- Does not call your parents
- Provides emergency contraception
- Proactive treatment for infections

VIOLENCE PREVENTION PROGRAM

**Advocate
Confidential Resource**

Shelli Poole
309 Longstreet
662-915-1059
sapoole@olemiss.edu

Title IX Reporting Process for Students

If this is an **emergency** or if you are in immediate danger, call 911 or the University Police Department at 662-915-7234.

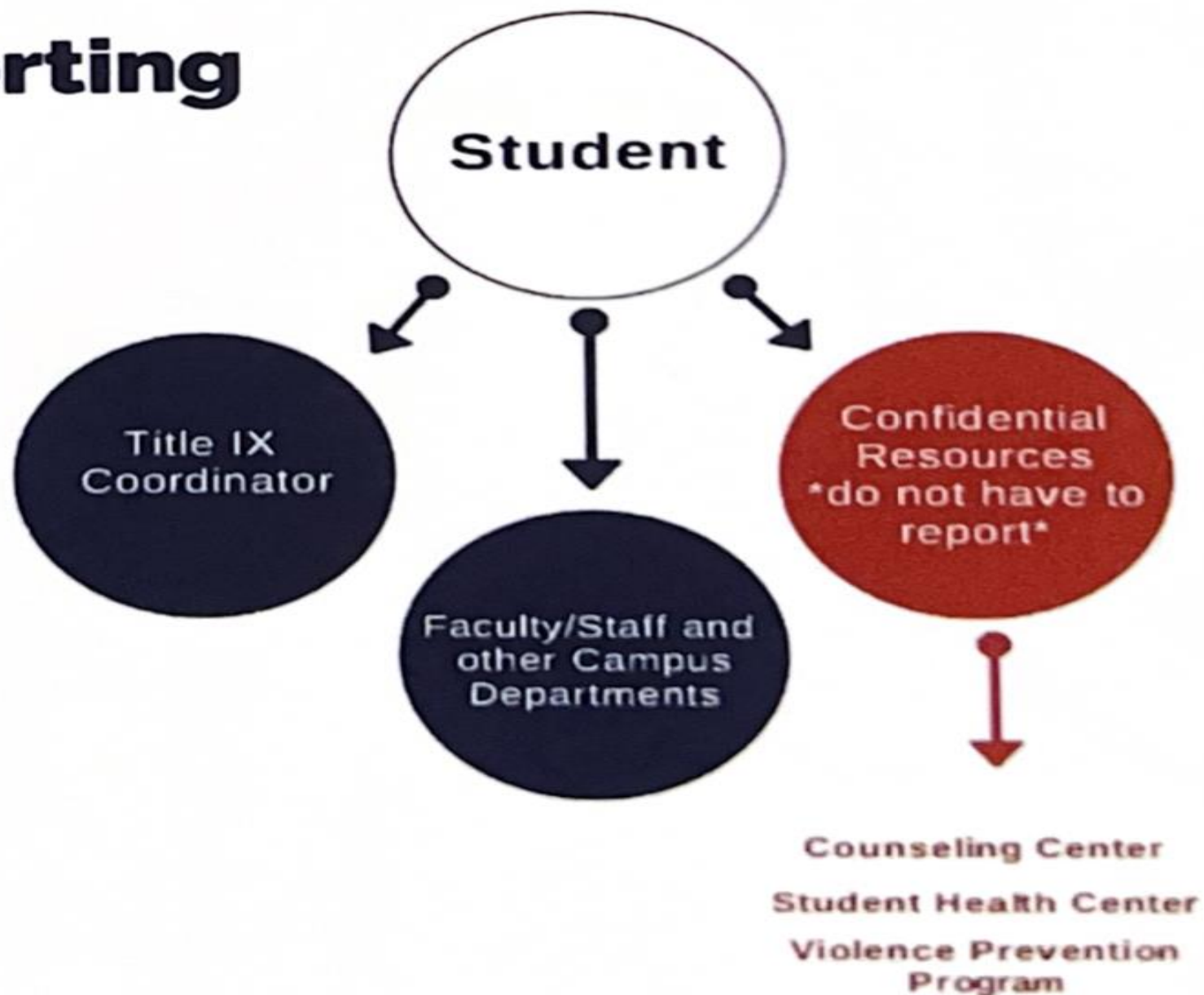
Otherwise, students are strongly encouraged to report Title IX occurrences **directly** to the Title IX coordinator, Honey Ussery.

If students are not comfortable reporting directly to the above resource, they are encouraged to utilize **other campus departments, online campus resources, or confidential resources.**

The resources on campus in BLUE are required to report any Title IX related information to the Title IX coordinator.

The members of campus in RED are confidential resources and are **NOT** required to report information to Title IX.

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EO/RC**

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TITLE IX

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THANK YOU

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662-915-7042