

Tuskegee University Title IX Policy

Tuskegee University's Sexual Harassment, Sexual Assault, Sexual Misconduct, Relationship (Dating) Violence and Stalking Policy

Nondiscrimination Statement

Tuskegee University (Tuskegee) prohibits discrimination based on sex in employment and education programs and activities both on and off campus. This policy applies to students, employees, and volunteers; to conduct on school grounds, off-campus conduct that has a continuing effect on University grounds, and conduct at school-sponsored activities; to conduct occurring in or on school-owned, school-leased or school-controlled facilities; and through technology resources provided by or used on campus at Tuskegee or used by any member of the Tuskegee community to bully, harass, stalk, threaten or otherwise engage in conduct in violation of this policy.

Tuskegee policy prohibits any conduct that violates Title IX of the Education Amendments of 1972 and other laws¹ prohibit discrimination on the basis of sex in employment and education programs and activities. Title IX protects all persons from sex discrimination, which includes sexual harassment and sexual violence. Tuskegee will process all sex discrimination complaints it receives, including complaints involving sexual harassment and sexual violence, regardless of where the conduct occurred, to determine whether the conduct alleged occurred in the context of an employment or education program or activity, or had continuing effects on campus. If alleged off-campus sexual harassment or sexual violence occurred in the context of an education program or activity or had continuing effects on campus, the complaint will be treated the same as a complaint involving campus conduct. This includes complaints of sexual assault or harassment by students, staff, faculty, administrators, volunteers, and third parties.

A. Title IX Coordinators

Complaints of sexual assault, sexual harassment or other conduct prohibited under this policy and inquiries concerning the application of Title IX and its regulations should be directed to the Tuskegee Title IX Coordinator or the co-Coordinator listed below:

Title IX Coordinator for Faculty/Staff/Students

For questions and complaints or to report an incident under Title IX, contact:

Interim Title IX coordinator

Marc Cardinalli (*pending appointment of a permanent director*)

C/o The Office of General Counsel

322 Kresge Center

Office: 334-727-8872

Mobile: 740-727-0020

To schedule an appointment to make an in-person report, contact Constanza Hoffman at choffman@tuskegee.edu

¹ Title IX of the Education Amendments of 1972, as amended, and its Implementing regulations, 34 C.F.R. Part 106 ("Title IX"); the Violence Against Women Reauthorization Act of 2013 (20 U.S.C. 1092(f)) (VAWA), also known as the Campus Sexual Violence Elimination Act (Campus SaVE Act); and Title VII of the Civil Rights Act of 1964, as amended.

The Title IX coordinators' responsibilities include investigating or overseeing the investigation of all incidents of alleged sexual assault or harassment; ensuring that consistent standards and practices apply to all investigations; being available to meet with students, employees, and volunteers who believe sexual assault or harassment has occurred; and assisting campus security or law enforcement as needed. Tuskegee reserves the right to utilize outside investigators for Title IX investigations and complaints. Complainants may also contact the U.S. Department of Education, Office for Civil Rights, (800)421-3481 or ocr@ed.gov.

B. Policy Definitions

Sex discrimination is an adverse action taken against an individual because of sex, including sexual harassment, sexual violence, domestic violence, dating violence, and stalking as prohibited by Title IX, Title IV, VAWA/Campus SAVE Act, and other laws and regulations. Both men and women can be targets of sex discrimination. Both male and female students and employees may be subjected to sex discrimination.

Sexual harassment is any unwelcome conduct of a sexual nature. This includes unwelcome verbal, nonverbal or physical conduct including but not limited to unwelcome sexual advances; requests for sexual favors; and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual violence, sexual advances, requests for sexual favors, and indecent exposure, where:

- a. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a student's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through Tuskegee; *or*
- b. Such conduct is unwelcome; *or*
- c. Submission to, or rejection of, the conduct by a Tuskegee employee is explicitly or implicitly used as the basis for any decision affecting a term or condition of employment, or an employment decision or action; *or*
- d. Such conduct is sufficiently severe or pervasive to create a hostile educational or employment environment.

Sexual harassment also includes acts of verbal, non-verbal (written) and physical aggression, intimidation or hostility based on sex or gender stereotyping, even if these acts are not sexual in nature.

Sexual Violence is a form of sexual harassment and means physical sexual acts, such as unwelcome sexual touching, sexual assault, sexual battery, rape, domestic violence, dating violence, and stalking (if based on sex), taken against an individual against his or her will and without consent or against an individual who is incapable of giving consent due to the use of drugs or alcohol, being a minor, or an intellectual or other disability. Sexual violence includes acts of physical force, violence, threats, and intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through drugs or alcohol, or taking advantage of another person's incapacitation, including voluntary drug or alcohol intoxication.

Incapacitated means the victim is temporarily incapable of appraising or controlling his/her conduct due to the influence of a narcotic, anesthetic or other substance administered without consent or due to any other act committed upon the victim without consent.

Sexual violence and sexual misconduct can be carried out by employees, volunteers, students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX. Both men and women can be victims of sexual violence.

Statutory rape is unlawful sexual intercourse with a minor, even if the intercourse is consensual.

Sexual Assault is a form of sexual violence and means (1) forcing or coercing an individual to engage in any non-consensual sexual contact, sexual conduct, or sexual penetration; or (2) an attempt to commit an unlawful act that places another person in reasonable apprehension of immediate, non-consensual, physical contact for sexual purposes.

Sexual Battery is a form of sexual violence and means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object.

Rape is a form of sexual violence that may or may not involve force or a threat of force, coercion, violence, or immediate bodily injury, threats of future retaliation, or duress. Rape means nonconsensual sexual intercourse or sexual penetration, which, in addition to intercourse, means nonconsensual oral or anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body. Any sexual penetration is sufficient to constitute rape. Sexual acts are considered non-consensual when they involve a person who is physically incapacitated, physically helpless, incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under the legal age of consent, or due to a mental or physical disability is incapable of giving consent.

Acquaintance Rape is a form of sexual violence committed by an individual known to the victim. This includes a person the victim may have just met, such as at a party, been introduced to through a friend, or met on a social networking website. The fact parties are acquainted or previously had a consensual sexual relationship is not a defense to an allegation or charge of acquaintance rape.

Consent means intelligent, knowing, and voluntary consent and does not include forced or coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender. Once consent is withdrawn or revoked, the sexual activity must stop immediately. Coerced submission includes submission based on fear, including but not limited to fear of period damage to reputation, force or personal injury

- Consent must be **voluntary** and given without coercion, force, threats, or intimidation.
- Consent can be **withdrawn or revoked**. Consent to one form of sexual activity (or consent to sexual activity on another occasion. The fact that two people are or were one sexual act) does not constitute consent to other forms of sexual activity (or other sexual acts). Consent to sexual activity given on one occasion does not constitute in a dating or sexual relationship does not constitute consent to engage in sexual activity Consent cannot be given by a person who is **incapacitated**. A person cannot give consent if s/he is unconscious or coming in and out of consciousness. Examples of incapacitation include unconsciousness, sleep and blackouts. Whether an *intoxicated* person (due to using alcohol or other drugs) is *incapacitated* depends on the extent to which the person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments is impaired.
- Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging in sexual activity. Factors to be considered when determining responsibility include whether the person knew, or whether a reasonable person in the respondent's position should have known, that the complainant could not give, did not give, or revoked, consent;

was incapacitated; or was otherwise incapable of giving knowing, voluntary, or conscious consent.

Domestic violence is a form of sexual violence and means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.⁹ "Family or household member" means spouse, former spouse, person related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

Dating violence is a form of sexual violence, and means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past 6 months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

"Dating violence" does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

Stalking means 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. For purposes of this definition,

- i. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.¹²
- ii. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- iii. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

Cyberstalking means engaging in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, regardless of platform, directed at a specific person or persons, causing emotional distress to that person. Cyberstalking by and among members of the campus community is a policy violation whether the respondent utilizes University resources or not.

Hostile Educational Environment. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school.

C. Prohibited Conduct

Any conduct by an employee, student, volunteer, or third party that denies or limits the ability of a student or employee to participate in or receive the benefits, services, or opportunities of employment or any Tuskegee program or activity based on sex is prohibited. This includes any circumstance where:

1. An employment or educational decision or benefit is conditioned on submission to unwelcome sexual advances or conduct;
2. Submission to, or rejection of, unwelcome sexual conduct is used as a basis for denying employment or an opportunity to participate in or benefit from any school program or activity;
3. Conduct has the purpose or effect of unreasonably interfering with, denying or limiting a student's ability to participate in or benefit from any school program or activity or a term, condition or benefit of employment;
4. Conduct alters the educational environment to the degree that it adversely affects the student's ability to participate in or benefit from any school program whether or not that student is the target of the harassment;
5. There is a pattern and practice of sexual harassment;
6. A faculty member, administrator, volunteer, alumnus or other person in a position of authority engages in sex discrimination or sexual harassment of a student or employee; and/or
7. A student or a group of students engages in sexual harassment of another student or students.

The following are examples of behaviors that are prohibited under this policy. This is not intended to be an exclusive or exhaustive list:

8. Unwelcome sexual flirtations, advances or propositions;
9. Derogatory, vulgar or graphic written or oral statements regarding one's sexuality;
10. Unwanted or unwelcome touching, patting, pinching, embracing, or other contact with an individual's body;
11. Attempted or actual physical assault;
12. Any nonconsensual sexual act, including but not limited to, rape, sexual assault, sexual battery and sexual coercion;
13. Unwelcome sexual comments, innuendoes, suggestions or jokes;
14. Display of sexually suggestive pictures or objects;
15. Domestic violence, dating violence, sexual violence, and stalking, including cyberstalking;
16. Sending text messages, e-mails, or other electronic communications with nude or sexually suggestive photos, videos, or other images; and

17. Sharing or sending nude or sexually suggestive images over the Internet.

This policy specifically includes electronic communications, including, but not limited to, phone calls, text messages, e-mail, and communications using social media such as Instagram, Snapchat, Twitter, and Facebook.

D. Reporting sexual misconduct or filing a complaint

Where to report. Sexual assault, sexual harassment, sexual misconduct, discrimination, and other behavior prohibited by this policy should be reported to:

Interim Title IX coordinator

Marc Cardinalli, J.D. (*pending appointment of a permanent director*)

C/o The Office of General Counsel

322 Kresge Center

Office: 334-727-8872

Mobile: 740-727-0020

To schedule an appointment to make an in-person report, contact Constanza Hoffman at choffman@tuskegee.edu

A complaint or report may be verbal or written and does not need to take a particular form.

Students may also report any incident of sexual violence or sexual harassment that may create or contribute to the creation of a hostile environment to any instructor or school employee. Students, staff faculty, and volunteers may notify the head of their department or unit, their supervisor, or any member of the Office of Human Resources or Student Affairs with whom they are comfortable. Any instructor or other employee receiving a report of an incident of sexual violence or sexual harassment that may create or contribute to the creation of a hostile environment is responsible for reporting it to the Title IX Coordinator. Failure to comply with this policy shall be grounds for disciplinary action, up to and including termination.

What to expect. Once a complaint is made, a Tuskegee representative, typically the Title IX Coordinator or a member of Campus Police Services, will meet with the complainant, provide a copy of this policy, and explain:

1. The importance of seeking immediate medical attention for sexual assaults;
2. The importance of preserving evidence;
3. The right to report a crime to campus or local law enforcement;
4. The right to *not* report a crime to law enforcement or file criminal charges;
5. The right to simultaneously file both a criminal complaint with campus security or local law enforcement and an institutional Title IX complaint;
6. The right to assistance from University officials with filing a criminal complaint, if assistance is requested;
7. Internal options, including informal and formal resolution;
8. Available health care, victim advocacy, academic support, mental health, legal assistance resources and counseling services available both on and off campus, including the campus health center, the campus counseling center and sexual assault resource centers, and pastoral counselors, which can be found [here](#);
9. Even if a complainant asks Tuskegee not to take any action, the University is obligated to investigate the complaint;
10. Prohibitions against retaliation;

11. Interim measures that may be put in place, including a no-contact order pending the outcome of the investigation, providing support services, changing living arrangements or course schedules, assignments, or tests, and temporary removal of the respondent from the campus community pending the outcome of an investigation; and,
12. Options for avoiding contact with the respondent(s), including being allowed to change academic and extracurricular activities and living, transportation, dining, and working situations as appropriate.

When implementing interim protective measures and taking steps to separate complainants from respondents, Tuskegee will attempt to minimize the burden on the complainant.

Confidentiality. Tuskegee will make reasonable and appropriate efforts to preserve student complainants' and student respondents' privacy and to protect the confidentiality of information. Tuskegee will only disclose information regarding complaints under this policy on a need to know basis, primarily to persons who are responsible for its investigation and any reporting requirements.

Tuskegee cannot require the complaining or responding student to maintain confidentiality, as the U.S. Department of Education has stated that restricting the ability of either party to discuss the investigation (e.g., through "gag orders") is likely to deprive them of the ability to obtain and present evidence or otherwise to defend their interests.

Tuskegee strongly supports a complainant's interest in confidentiality in cases involving sexual violence. If a student complainant requests confidentiality, the Title IX Coordinator will determine whether Tuskegee can honor this request while providing a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence. A request for confidentiality could preclude a meaningful investigation; therefore, Tuskegee will consider whether there are circumstances present that demonstrate a risk that the respondent may commit additional acts of sexual violence or other violence. These include whether other sexual violence complaints have been received about the same respondent; whether the respondent has a history of arrests; whether the respondent has records from a prior school indicating a history of violence; whether the respondent threatened further sexual violence or other violence against the complainant or others; and whether the sexual violence was committed by multiple perpetrators. Other factors include whether the sexual violence was perpetrated with a weapon, and the age of the student subjected to the sexual violence.

If the complainant asks that the complaint not be pursued, Tuskegee will take reasonable steps to investigate and respond to the complaint consistent with the request not to pursue an investigation. If the complainant denies that a Title IX violation occurs and requests that no investigation be pursued, he or she cannot subsequently fault University or University personnel for not honoring this the request.

Even when a student asks that a complaint not be pursued or that information be kept confidential, Tuskegee reserves the right to provide over further student to support services and offer remedial action, such as changing living arrangements or course schedules, assignments, or tests as appropriate. For a complaint involving a respondent who is a faculty member, the University also reserves the right to reassign the complaining student to another academic section or to assign another faculty member evaluate the student's academic assignments, progress, completion, or success, if the student requests that this occur. A decision to reassign a student to another academic section or to assign another faculty member to evaluate the student's academic performance or success should in no way be considered a determination of guilt, culpability or wrongdoing by or against the respondent faculty member.

E. Investigation

Complaints under this policy will be investigated by the Title IX Coordinator or a designee (referred as the "Investigator"). Other University officials may assist in gathering facts during the investigation and information from Tuskegee Campus Police, local law enforcement officials, the district attorney, or others external to the University may be considered. Individualized support services must be offered as appropriate to either or both the reporting and responding parties involved in an alleged incident of sexual harassment, violence, or misconduct prior to an investigation or while an investigation is pending. Both parties will be given the same opportunity to present relevant evidence and witnesses, including character witnesses.

Tuskegee policy does not generally provide for the respondent having an opportunity to review the complainant's complaint. If the respondent is allowed to review the complainant's statement, the complainant may also review any statement by the respondent. No other witness statements or documents will be available for review by the parties during the investigation. During the investigation, Tuskegee will:

- (1) Gather sufficient evidence to reach a fair, impartial determination concerning whether sexual misconduct occurred;
- (2) Determine whether a hostile environment has been created; and
- (3) Determine whether the hostile environment must be redressed.

In cases of alleged domestic violence, dating violence, sexual assault, or stalking, proceedings under this policy shall provide a prompt, fair, and impartial investigation and resolution; and be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Notice of Investigation. At the outset of an investigation, the Investigator will advise the respondent of the allegations against him or her in writing. Once a Tuskegee decides to open an investigation that may lead to disciplinary action against a responding party, written notice of the allegations constituting a potential violation of the school's sexual misconduct policy should be provided to the respondent, including sufficient details, and sufficient time to prepare a response before any initial interview. "Sufficient details" include the identities of the parties involved, the specific section of the code of conduct allegedly violated, and the precise conduct allegedly constituting the potential violation, and the date and location of the alleged incident.

Relevant Information for Investigation. At the outset of an investigation, the Title IX Coordinator/Investigator will notify the respondent of the allegations against him or her and request a written response. In addition, the Title IX Coordinator/Investigator may collect and consider the following types of information:

- Statements by the complainant and respondent about the alleged incident(s);
- Statements by witnesses to the alleged incident(s);
- Evidence about the credibility of the alleged victim and the alleged harasser;
- Evidence that the alleged harasser has been found to have harassed other victims;
- Evidence that the alleged victim has made false allegations against other individuals;
- Evidence as to whether the alleged victim's reaction or behavior after the alleged harassment;
- Evidence as to whether the alleged victim filed a complaint or took other action to protest the conduct soon after the incident occurred; and
- Other evidence of the harassment (*e.g.*, reporting conduct to parents, counselors or friends, or medical records)

- The fact of a current or previous consensual dating or sexual relationship between the parties will not imply consent or preclude a finding of sexual violence.

Evidentiary/fact relevance determinations. The Title IX Coordinator/Investigator has broad discretion in determining whether a proffered witness or documentary information would be relevant or helpful to a determination.

Evidentiary Standard. A "preponderance of the evidence" standard will be used.

Time Frame for Investigation and Completion of Report. There is no fixed time frame under which a school must complete a sexual misconduct investigation. While the report and investigation should be completed within 90 calendar days after notice of a complaint, the inability to meet this time frame does not affect the legitimacy, credibility or reliability of the investigation or report. A written decision must be completed and provided to the parties at the conclusion of the investigation.

Obligation to cooperate. All faculty, staff, volunteers, and students are required to cooperate in the investigation process. Refusal to cooperate will result in disciplinary action based on failure to cooperate in an official University investigation for employees and volunteers, and disciplinary action potentially leading to dismissal.

Opportunity to Participate. Both the complainant and the respondent will have the same opportunity to meet with the Investigator, to submit relevant documentary or other evidence, including character evidence, and to request that the investigator speak with relevant witnesses and evaluate written documents and statements. The Investigator may exclude any third party (including legal counsel, family members, or character witnesses) from such meetings and interviews. In addition, the reporting and responding parties will have timely and equal access to any information that will be used during informal and formal disciplinary meetings and hearings.

Pending criminal matters. The internal investigation will proceed whether a related criminal matter is pending or not. If there is an ongoing criminal investigation, Tuskegee will *not* wait for the conclusion of the criminal investigation or criminal proceeding to begin its own Title IX investigation. However, Tuskegee may temporarily delay the fact-finding portion of a Title IX investigation while the police or other law enforcement officials are gathering evidence, particularly if law enforcement officials, including the police and district attorney with jurisdiction over the complaint, or other authorities request that the University stand down in order to facilitate the law enforcement investigation.

Opportunity to Respond to Report. Before a decision concerning responsibility is made or, for students, before there is a hearing, the investigation report should be provided to the respondent and to the complainant. Both parties must have an opportunity to respond to the findings, conclusions, and other information in the investigation report in writing before a decision of responsibility is made or, if there is a hearing, at a live hearing to determine responsibility.

F. Hearings for Student respondents.

The student sexual misconduct hearing process will protect both complainants and respondents and promote accountability. When the complaint involves students, the investigator's final report will be submitted to the Dean of Students for a determination as to whether to proceed with a hearing. If there is a hearing, both the complainant and respondent will be given the opportunity to present evidence and witnesses, as well as have an advisor of their choice present, though that advisor may not participate in

any of the proceedings. The hearing panel shall have no authority to compel the attendance of witnesses. The following applies:

1. Both parties will be given similar and timely access to information that will be used at the hearing.
2. Any conflicts of interest between a party and the fact-finder or decision-maker at a hearing must be disclosed.
3. Both parties will be given the same opportunity to present relevant evidence and witnesses, including character witnesses.
4. If the respondent is allowed to review the complainant's statement, the complainant may also to review the respondent's statement.
5. The parties are prohibited from personally questioning each other at hearings.
6. If the institution allows attorneys to attend the disciplinary hearings, the attorneys for both sides must have the same opportunity to speak and participate.
7. If attorneys are allowed to attend in an advisory capacity both sides must have the same opportunity to provide advice.
8. Tuskegee will maintain documentation of all disciplinary hearing proceedings, including written findings of facts, transcripts, and any audio recordings.
9. The fact of a current or previous consensual dating or sexual relationship between the parties does not itself imply consent or preclude a finding of sexual violence.

For each policy violation alleged, the hearing panel must determine whether it is more likely than not that a violation of policy occurred and issue a written decision. For each policy violation charged, the written decision must include specific findings of fact and conclusions as to whether the facts support a finding of responsibility for violation of the Title IX sexual misconduct policy. The written decision will include, but not be limited to, whether the allegations were substantiated, and if so, recommended disciplinary sanctions and protective or remedial measures. If considered warranted in the judgment of the panel, the written decision may also include protective or measures for the respondent. The hearing decision will be provided to both parties, although the content of each letter may be modified subject to the limitations of FERPA and other federal or state privacy laws. In cases of alleged sexual assault, the result of the hearing and any sanction imposed will be disclosed to both parties regardless of whether the hearing concludes an assault was committed.

The complainant and respondent will both be notified of the findings in writing within the same 24-hour period.² The written decision will be relayed to the respondent and complainant, including any restrictions or sanctions. If the complaint is against a faculty member or other employee, the hearing decision will be submitted to the EEO/Title IX Coordinator, who will make a recommendation concerning restrictions or sanctions to the Provost or Director of Human Resources. The Provost or Director of human resources or their designee will make the final determination as to any recommended actions or sanctions.

For matters involving student respondents only, as the decision-maker with respect to any disciplinary sanction imposed after a finding of responsibility, the Dean of Students may consider the recommendations of the panel as well as the impact of separating the student from his or her education. The disciplinary sanction decision must be made for the purpose of deciding how best to enforce Tuskegee's code of student conduct while considering the impact of separating a student from her or his education. Per the U.S.

² OCR recommends that a school provide written notice of the outcome of disciplinary proceedings to the reporting and responding parties concurrently. The content of the notice may vary depending on the underlying allegations, the institution, and the age of the students.

Department of Education's Interim [2017 Q & A](#). "Any disciplinary decision must be made as a proportionate response to the violation."³

Any person who serves on a hearing board related to sexual misconduct will receive annual training on the University's policies and procedures related to sexual harassment and sexual violence.

For employee respondents

For employee respondents, including faculty, staff, and administrators, disciplinary processes in place for disciplinary misconduct, administered through Human Resources (for staff employees) and through Human Resources and Academic Affairs (for faculty members) shall be utilized. For faculty and staff, being found responsible for a violation of Title IX will subject the employee to discipline, up to and including termination of tenure and termination of employment.

Appeals

A student may appeal a decision to the Vice President for Student Affairs or a designee. The appeal must be submitted in writing within five business days of receiving written notification of hearing outcome.

Bases for appeal. The Vice President for Student Affairs will review the appeal on the record. An appeal will be heard where it is based on one or more of the following:

Improper hearing procedures that materially affected the outcome of the hearing; New evidence (not available at time of original hearing) has surfaced; or Imposition of an inappropriate sanction for the offense in question.

At his or her election, the Vice President for Student Affairs may have an in-person meeting with the appealing student as well as the non-appealing student. The complainant or respondent may file an appeal. Appeals filed after the deadline will not be considered.

Vice President for Student Affairs or designee other than the Dean of Students will issue a decision in writing to the appealing and nonappealing students no later than 30 days after the request for an appeal has been submitted. This deadline may be extended for good cause or in the event of complex or unusual circumstances. If this deadline is extended, the Vice President for Student Affairs or designee other than the Dean of Students shall notify the respondent and complainant of the delay in writing. The decision of the Vice President for Student Affairs shall be final.

It is the responsibility of the respondent and the complainant to be aware of this policy. An appeal to the President of the University or to any University official other than the Vice President for Student Affairs shall not be heard and shall not be considered an appeal for purposes of this policy.

G. Sanctions and protective measures

Individualized services must be offered as appropriate to either or both the reporting and responding parties involved in an alleged incident of sexual misconduct. If a violation of this policy is proven by a preponderance of the evidence (*i.e.*, that it is more likely than not that sexual harassment occurred), immediate action, including protective measures, will be implemented to end the harassment and

³ In addition, its annual security report, Tuskegee shall list all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking.

prevent its reoccurrence. For students, once a student is found responsible for a sexual misconduct violation, before a sanction is imposed, Tuskegee should consider: (1) how best to enforce its code of conduct; (2) the impact of separating a student from his or her education; and (3) whether the proposed sanction is a proportionate response to the violation. The recommended action will depend on the degree of control the school has over the harasser and the nature, frequency and severity of the substantiated sexual harassment. In all instances, the Title IX Coordinator will follow up and communicate with the complainant at the conclusion of the investigation.

Depending on whether the alleged harasser is a student, teacher, staff member, volunteer, or third party, sanctions can include a verbal warning, written reprimand, a no-contact order, short-term or long-term suspension, expulsion, or dismissal/termination. Counseling for the complainant and the respondent, as well as other protective measures, will also be considered as remedial action. In addition, the following protective measures may be imposed following a final determination of rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking:

Protective or remedial measures. Whether or not a complainant pursues a grievance, complaint, disciplinary action, or legal prosecution, he or she is eligible for protective or remedial measures. Available protective and remedial measures include, but are not limited to:

- a. Providing an escort to ensure that the parties can move safely between classes and activities;
- b. Ensuring the complainant and respondent do not share classes or extracurricular activities;
- c. Moving the respondent or complainant (if the complainant requests to be moved) to a different residence hall;
- d. Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- e. Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and
- f. Reviewing any disciplinary actions taken against the complainant to see whether there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined.

Any sanction imposed on the respondent that relates directly to the complainant, such as a "no contact" order, transfer to different classes or housing, or a suspension will be disclosed to the complainant. Unless otherwise provided for by law, the complainant and respondent will not be notified of the individual remedies offered or provided other than no-contact orders. In cases of alleged sexual violence, the result of the hearing and any sanction imposed will be disclosed to both parties regardless of whether the hearing concludes an assault was committed.

I. Informal Resolution

If the complainant requests or agrees to mediation or informal resolution, he/she will not be required to work out problems directly with the respondent. Informal resolution processes may be used to resolve sexual misconduct cases if both parties agree. The complainant has the right to terminate the informal process at any time and begin the formal stage of the complaint process.

J. Alleged student perpetrator's rights under the Family Educational Rights and Privacy Act (FERPA)

Under FERPA, an alleged student perpetrator may ask to inspect and review information about the allegations against him or her if the information directly relates to the respondent and is maintained

as an education record. In such a case, Tuskegee will either redact the complainant's name and all identifying information before allowing the respondent to inspect and review the sections of the complaint that relate to him or her, or notify the respondent of the specific information in the complaint that is about the respondent. *See* 34 C.F.R. § 99.12(a).

K. Non-retaliation

Retaliation against a student, employee, or other individual who reports or complains about sex discrimination to an appropriate school official or participates in a report, investigation or proceeding involving a claim or allegation under this policy because he or she made a complaint, testified, or participated in an investigation or proceedings is prohibited.

L. Dissemination of policy

This policy must be distributed to:

1. Students
2. Administrators, faculty, other employees, and volunteers
3. Applicants for admission
4. Application for employment

This policy must be available:

1. On the school website
2. In hard copy at multiple campus locations
3. In both printed and electronic publications, including student, staff, and faculty handbooks, codes of conduct, and catalogs

M. Available Resources for Complainants and Respondents

Campus Resources

Tuskegee University Wellness Center

Services: 8:00 a.m. to 4:30 p.m. Monday through Friday.

Telephone number: (334) 727.8244

Student Health Services

Suite 71-235, John A. Kenney Hall

Phone: 334.727.8641 or 334.727.8642

Fax: 334.724.4437

Phone (Interim Director): 334-724-4746

Chapel (Clergy)

Dean Gregory Gray, Ph.D

Phone: 334.727.8702

Email: ggray@tuskegee.edu

Tuskegee University Police Department

Location: Tompkins Hall Suite-200

Emergency Number: 334.724.4911 (On-campus dial 4-911)
General Information: 334.727.8756
Confidential Hotline: 334.724.4583

Emergency Medical Services

334.724.4911 (On-campus dial 4-911)

Vice-President for Student Affairs

334.724.4746

Dean of Students

334.727.8421

Residence Life and Development

334.727.8915 or 8930

Housing

334.724.8100 or 4617

Off-Campus Resources

New Directions Behavioral Health

Toll Free: 800-624-5544

Web: www.ndbh.com

Login code: Tuskegee

Crisis Assistance

1.800.650.6522

www.acar.org

City of Tuskegee Police

334.727.0200

Macon County Sheriff

334.727.2500

References:

[U.S. Department of Education Q & A on Campus Sexual Misconduct](#)

The [Violence against Women Reauthorization Act of 2013](#), (VAWA), also known as the Campus Sexual Violence Elimination Act (Campus SaVE Act).

[Title IX of the Education Amendments of 1972](#), as amended.

[Title VII of the Civil Rights Act of 1964](#), as amended.

The [Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#), as amended October 26, 2010 [Dear Colleague Letter](#) on harassment and bullying, issued by the U.S. Department of Education

April 24, 2013, [Dear Colleague Letter](#) on Title IX retaliation, issued by the U.S. Department of Education.

[Title IX Legal Manual](#). U.S. Department of Justice Civil Rights Division.

[Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties](#)

[Office for Civil Rights Dear Colleague Letter on Sexual Harassment](#)