

MEMORANDUM

DATE: March 28, 2017

TO: All University Employees

FROM: Sarah C. Mangelsdorf, Provost and Vice Chancellor for Academic Affairs
Cathy Trueba, Director, Office of Compliance

RE: Safe Learning and Work Environments—Reporting Requirements and Resources

All faculty and staff members at the University of Wisconsin-Madison share a responsibility to create safe learning and work environments and a positive campus climate. To do so requires all of us to understand certain federal and state compliance obligations, meet our reporting responsibilities, and know the appropriate campus resources to address safety concerns. This memorandum provides necessary information regarding the following compliance obligations:

- I. Wisconsin Executive Order #54** <<https://oed.wisc.edu/child-abuse-and-neglect.htm>>
- II. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act** (applies to designated UW Madison Employees) <<http://uwpd.wisc.edu/crime-data/clery-act/>>
- III. Mandatory Sexual Assault Reporting** <<https://compliance.wisc.edu/titleix/campus-procedures/reporting/>>
- IV. Consensual Relationships Information** <<https://oed.wisc.edu/consensual-relationships.htm>>
- V. Title IX Compliance Responsibilities** <<https://compliance.wisc.edu/titleix/>>

I urge you to read this memorandum carefully and understand the responsibilities you have, the training obligations associated with these responsibilities, and the campus resources available to you. This will enable you to respond appropriately when you are approached by someone regarding matters covered in this memo. Additional information about training related to Title IX will be provided in the coming months. Please retain this memorandum for future reference regarding your compliance and reporting responsibilities.

I. WISCONSIN EXECUTIVE ORDER #54 (applies to ALL UW System employees)

Executive Order #54 (EO54)

<http://docs.legis.wi.gov/code/executive_orders/2011_scott_walker/2011-54.pdf> requires all University of Wisconsin System (UWS) professors, administrators, coaches, and other UWS employees to report child abuse or neglect immediately if the employee, in the course of employment, observes an incident or threat of child abuse or neglect, or learns of an incident or threat of child abuse or neglect, and the employee has reasonable cause to believe that child abuse or neglect has occurred or will occur. Volunteers and contractors who are expected to have regular contact with children while performing services for UW must also comply with the same reporting procedures as UW employees.

The report must be made to the UW-Madison Police Department (608) 264-2677, other local law enforcement, or the local child protective services agency (see contact information under Resources, below).

In addition to the external report to law enforcement or child protective services, if the incident or threat of child abuse or neglect involves an allegation against a UW employee or agent (e.g. student, volunteer, etc.), or the incident or threat of child abuse or neglect occurred on the UW campus or during a UW-Madison sponsored activity, the reporter must immediately report the matter internally to the university. During business hours, an internal report should be made to the Office for Equity and Diversity, (608) 263-2378. Outside of normal business hours, the internal report should be made to the UW-Madison Police Department (608) 264-2677.

Privacy statutes affect the ability to report to law enforcement or child protective services in some limited circumstances.

FERPA: If a UW employee learns of possible child abuse or neglect from the educational records of a matriculated student, the Family Educational Rights and Privacy Act (FERPA) applies. FERPA does permit reporting if a child is presently in danger.

HIPAA: If a UW employee learns about possible child abuse or neglect from a medical record or in the context of a patient's receipt of health care services, the Health Insurance Portability and Accountability Act (HIPAA) and Wisconsin medical records laws must be followed.

A UW employee who is a mandatory reporter by profession under Wis. Stat. § 48.981(2) (e.g., health practitioner, social worker, law enforcement officer, child care provider) must continue to comply with the state mandatory reporter laws. Questions regarding privacy statutes and EO54 can be directed to the Office of Legal Affairs, (608) 263-7400.

Training

An online training for mandatory reporters under EO54 provides focused education about the duty to report and how to recognize the signs of child abuse and neglect. New employees should complete the training during their probationary period. Continuing employees who have not yet received training should do so as soon as reasonably possible upon receipt of this memo.

The mandatory EO54 training is available online at <http://wcpds.wisc.edu/mandatedreporter/>. For additional training regarding these obligations, contact Kathryn (Kate) O'Connor in the Office for Equity and Diversity at (608) 263-2378, WTRS: 7-1-1.

Resources

1. Mandatory EO54 Training <<http://wcpds.wisc.edu/mandatedreporter/>>
2. Mandatory Child Abuse Reporting Guidelines for UW-Madison Employees <<http://www.oed.wisc.edu/child-abuse-and-neglect.htm>>
3. The University of Wisconsin-Madison, Policy on Mandatory Reporting of Child Abuse and Neglect <https://oed.wisc.edu/documents/UW-Madison_Policy_on_Child_Abuse_and_Neglect.pdf>
4. Child Abuse and Neglect Resources <<https://oed.wisc.edu/537.htm>> (including brochures in English, Chinese, Hmong, Spanish and Tibetan)

Emergency Phone Number: 9-1-1

Non-Emergency Phone Numbers:

- University of Wisconsin–Madison Police Department: (608) 264-COPS or (608) 264-2677
- Dane County Child Protective Services: (608) 261-KIDS or (608) 261-5437
- Madison Police Department: (608) 266-4275
- Wisconsin Telecommunications Relay System (WTRS): To connect to WTRS, dial 7-1-1 from any phone in Wisconsin, or the appropriate WTRS toll-free number <http://www.wisconsinrelay.com/>.

II. JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT (Applies to UW Madison Employees designated as “Campus Security Authorities”)

Reporting and Training

The federal law known as the Clery Act identifies certain staff, faculty, and students as “Campus Security Authorities” (CSAs) <https://uwpd.wisc.edu/who-is-a-csa/> and requires that they forward statistical reports of crimes to designated offices on campus. If you are not sure if you are a CSA, please contact the Clery Director at jaimie.gilford@wisc.edu.

CSAs may file a report electronically through the Campus Incident Reporting Form: https://cm.maxient.com/reportingform.php?UnivofWisconsinMadison&layout_id=11.

CSA training is an annual requirement and available online at <https://hrdesign.wisc.edu/otm/uwpd/csa/lesson/>. In-person CSA training is also available for any units or divisions that request it. Please contact Jaimee Gilford for more information.

UW-Madison encourages all members of the Badger community who are victims of crime, including sexual assault, domestic violence, dating violence, and stalking to file a police report immediately with the UW-Madison Police Department or the Madison Police Department. Contacting a “Campus Security Authority” is not the same as filing a report with the UW-Madison Police Department or the Madison Police Department.

To contact the University of Wisconsin-Madison Police Department, (UWPD): Dial 9-1-1 on campus or the non-emergency number; (608) 264-2677 (4-COPS) for reporting crimes that occur on campus. You may also visit the UWPD’s offices located at 1429 Monroe Street, Madison, Wisconsin 53711. UWPD is open 24 hours a day, 7 days a week.

To contact the City of Madison Police Department (MPD): Dial 9-1-1 off campus or their non-emergency number: (608) 266-4316 to report crimes that occur off campus. You may also visit MPD’s offices at 211 South Carroll Street, Madison, Wisconsin 53709. MPD is open 24 hours a day, 7 days a week.

About the Clery Act

The Clery Act, is a federal law that requires institutions of higher education to have in place certain security and safety policies, and to disclose certain crime statistics. These policies and statistics are published every year on October 1 in UW-Madison's Annual Security and Fire Safety Report. Statistics are gathered through reports to the University of Wisconsin-Madison Police Department (UWPD), the Dean of Students Office, University Housing, the Title IX Coordinator and the Special Assistant-Complaint Investigator in the Office of Compliance, the Office for Equity and Diversity, and other Clery Act-designated Campus Security Authorities. UWPD also requests crime statistics from outside law enforcement agencies that may have jurisdiction over UW-Madison's non-campus property. UWPD and the Dean of Students Office collaborate in compiling the crime, arrest and referral statistics to ensure statistics are not missed or double counted.

The Clery Act also requires institutions with campus police or security departments to maintain a daily crime log in an effort to provide a more "real-time" snapshot of crime on campus. UW-Madison's Clery Crime Log can be found online at <http://uwpd.wisc.edu/crime-data/60-day-crime-log/>. The Clery Act requires UW-Madison to distribute Crime Warnings regarding crimes that occur within UW-Madison's Clery geography and represent a serious continuing threat to the safety of students or employees. Known in the Clery Act as a "timely warning," the intent of a Crime Warning is to warn of a criminal incident so that people will be enabled to protect themselves.

Information about UW-Madison's Clery program, including resources for and about our Campus Security Authorities, selected Clery policies, and reporting, rights, and resource information for victims of sexual assault, domestic violence, dating violence, and stalking is available on the UWPD website: <https://uwpd.wisc.edu/crime-data/clery-act/>. If you have questions, contact the Clery Director at UWPD at (608) 286-9871 or (608) 250-9638.

Resources

1. UW-Madison 2016 Annual Security and Fire Safety Report
<<http://uwpd.wisc.edu/content/uploads/2016/09/ASR16-Final-Draft-093016.pdf>>
2. "Rights and Resources for Victims of Sexual Assault, Domestic Violence, Dating Violence, and Stalking." <[http://uwpd.wisc.edu/content/uploads/2014/12/CSA-Resorces-Handout-Victim-RightsResources-2014-VAWA.Clery .pdf](http://uwpd.wisc.edu/content/uploads/2014/12/CSA-Resorces-Handout-Victim-RightsResources-2014-VAWA.Clery.pdf)>

III. MANDATORY SEXUAL ASSAULT REPORTING (Applies to UW Madison Employees)

Chapter 36.11 (22), Wisconsin Statutes, requires "any person employed at [UW-Madison] who witnesses a sexual assault on campus or receives a report from a student enrolled in the institution that the student has been sexually assaulted shall report to the dean of students of the institution. The dean of students shall compile reports for the purpose of disseminating statistical information."

Information about the Wisconsin statute defining sexual assault is available online at

<http://docs.legis.wi.gov/statutes/statutes/940/II/225>.

Reporting

For UW-Madison to comply with this state law, we need the cooperation of all university employees. We rely on reports from employees, students, and other members of the university community to support victims and meet our legal obligations. The purpose of these reports is to collect crime and referral statistics and to inform UW-Madison of crimes so that UW-Madison can follow-up with action when appropriate. Information gathered may also result in an investigation by the Office of Student Conduct and Community Standards or the Office of Compliance.

Faculty and staff who witness a sexual assault in the Clery Act geographic reportable areas or who receive a first-hand report of sexual assault of a student, are required to report the sexual assault using the Campus Incident Reporting Form:

https://cm.maxient.com/reportingform.php?UnivofWisconsinMadison&layout_id=11. Reporters ARE NOT expected to investigate or ask people involved specific questions in order to complete the reporting form.

Note: Information gathered from the Campus Incident Reporting form will not result in a police investigation. If you want to report a crime to law enforcement, please call UWPD at 911 or 608-264-2677 (COPS), or come to UWPD at 1429 Monroe St., Madison, WI. UWPD is open 24 hours a day, every day of the year.

Employees unable to report electronically should contact David Blom, Campus Title IX Coordinator, at titleIX_coordinator@wisc.edu or david.blom@wisc.edu or via telephone at (608) 890-3788.

Students who experience, witness, or receive a first-hand report of sexual assault are strongly encouraged to contact the UW-Madison Dean of Students office in the Division of Student Life <<https://students.wisc.edu/doso/services/sexual-assault-dating-and-domestic-violence/>>. The Dean of Students Office is designated to receive reports from students or about student victims/perpetrators. The Office takes sexual assault reports seriously and will assist students in any way possible.

Resources

1. Reporting Allegations of Sexual Assault <<https://students.wisc.edu/doso/services/sexual-assault-dating-and-domestic-violence/>>
2. University Health Services offers helpful resources <<http://www.uhs.wisc.edu/assault/sa-resources.shtml>> for individuals who have concerns about sexual assault, dating or domestic violence, and stalking.
3. University Health Services, EVOC/End Violence on Campus and partners <<http://www.uhs.wisc.edu/evoc/>> have published a resource guide, "Information for Faculty, Staff, and TAs: Sexual Assault, Dating Violence, and Stalking" <<http://www.uhs.wisc.edu/assault/documents/sadvresourceguide.pdf>> outlining steps to take if

an individual discloses his or her experience to you.

4. Emotional, medical, legal, and campus support for victims/complainants is available online at <https://www.uhs.wisc.edu/prevention/violence-prevention/resources/>.

IV. CONSENSUAL RELATIONSHIPS INFORMATION

Consensual Relationships

The university presumes that the ability to make objective decisions is compromised if there is a romantic and/or sexual relationship between two individuals who have a reporting or evaluative relationship. There is almost always a power differential between such individuals that not only obscures objectivity but also influences perceptions of consent. The individual with the power or status advantage is required by university policy to report the relationship to his or her supervisor and will be accountable for failing to make this report.

A supervisor who learns of the consensual relationship has the responsibility to make appropriate arrangements to eliminate or mitigate a conflict whose consequences might prove detrimental to the university or to either party in the relationship, particularly the person in the subordinate role. Supervisors can consult with various campus resources for assistance in meeting this responsibility.

Faculty and staff with Limited Appointment titles are required to attend an informational session on consensual relationships. Informational sessions regarding consensual relationships are also available to any campus unit, upon request. If you wish to schedule one of these informational sessions for your unit, please contact Kathryn (Kate) O'Connor, Office for Equity and Diversity, (608) 263-2378.

Resources

See the University of Wisconsin-Madison Faculty Legislation, II-307 Statement on Policy on Consensual Relationships <https://www.secfac.wisc.edu/FacLeg300_399.htm#307> and the University of Wisconsin System Board of Regents Policy 14-8 on Consensual Relationships <<https://www.wisconsin.edu/regents/policies/consensual-relationships/>> for more information.

V. TITLE IX COMPLIANCE RESPONSIBILITIES

Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in any educational program or activity receiving federal financial assistance. All public and private colleges and universities receiving any federal financial assistance, including UW-Madison, must comply with Title IX. Title IX's prohibition against sex discrimination includes acts of sexual harassment and sexual violence.

Sexual harassment and sexual violence degrade the quality of work and education at UW-Madison. They violate the law and university policy, and can damage personal and professional relationships, cause career or economic disadvantage, and expose the university to legal

liabilities, a loss of federal research funds and other financial consequences. Each of us has a duty not to harass or commit acts of violence against others and to act responsibly when confronted by the issue of sexual harassment or sexual violence. We have a collective responsibility to do so, thereby promoting an environment that better supports excellence in teaching, research, and service.

On April 4, 2011, the U.S. Department of Education, Office for Civil Rights, (OCR), issued a “Dear Colleague” letter providing additional guidance on Title IX <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>. In accordance with this guidance, UW-Madison is responsible for taking immediate and effective steps to respond to sexual harassment and sexual violence once UW-Madison is made aware of the harassment or violence. Sexual violence includes physical sexual acts performed against a person’s will or where a person is incapable of giving consent. A number of acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. UW-Madison also places acts of domestic violence, dating violence and gender-based stalking in this category.

When UW-Madison investigates alleged violations of Title IX, it determines responsibility based upon a, “preponderance of the evidence” standard, a standard used in civil cases, as opposed to the, “beyond a reasonable doubt” standard used in criminal cases. In cases where UW-Madison determines that behavior prohibited by Title IX has occurred, UW-Madison must stop the behavior, prevent it from recurring and remediate the impact on the survivor/victim. UW-Madison will take prompt and appropriate action whenever it learns that sexual harassment or sexual violence has occurred.

Reporting Obligations and “Responsible Employee” Designation

Under newly adopted UW-Madison policy, UW-Madison faculty and staff who are designated as “responsible employees” for Title IX reporting purposes are expected to report incidents of sexual harassment or sexual violence to the campus Title IX Coordinator <https://compliance.wisc.edu/titleix/>. Employees in the following categories are designated as Title IX responsible employees (some employees will fall into more than one category):

- The Chancellor
- Provost
- Vice Chancellors
- Vice Provosts
- Deans and all other employees with limited appointments including Directors
- Department Chairs
- Human Resources Representatives
- Academic Department Administrators
- Head and Assistant Coaches of intercollegiate athletic teams
- Intercollegiate Athletic Department Directors (including executive, associate and assistant directors)
- Police Department Staff
- University Housing Managers and Supervisors
- University Housing Student Supervisors

- University Housing House Fellows
- University Housing Resident Managers
- Student Services Staff
- Title IX Coordinator and Deputy Title IX Coordinators
- University Complaint Investigators
- Hearing Officers, Hearing Panel Members and Disciplinary Decision Makers
- Officers responsible for hearing appeals in cases involving allegations of sexual harassment and sexual violence.

Employees in these categories who provide or support the provision of advocacy, counseling, health, mental health, sexual assault-related services or disability-related services are exempt from the responsible employee designation.

Any other Title IX concern may also be reported directly to the campus Title IX Coordinator in the Office of Compliance.

Please note: Responsible Employee training information will be provided in the coming months.

Before a student or employee reveals information that they may wish to keep confidential, employees with Title IX reporting responsibilities should make every effort to ensure that the person making the report understands: (i) the employee's obligation to report the names of the alleged perpetrator and victim involved in the alleged sexual harassment or sexual violence, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator or other appropriate school officials, (ii) the person's option to request that UW-Madison maintain their confidentiality, which UW-Madison (e.g., Title IX coordinator) will consider, and (iii) the person's ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services (e.g., sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers).

The University will not disclose identifiable information about research subjects if prohibited by an NIH-issued Certificate of Confidentiality, HIPAA regulations and state laws pertaining to the privacy of health information or promises of confidentiality made to research subjects pursuant to the federally required consent form and authorization form.

Title IX inquiries should be directed to the campus Title IX Coordinator <<https://compliance.wisc.edu/titleix/>>, the Equal Opportunity Complaint Investigator in the Office of Compliance <<https://compliance.wisc.edu/eo-complaint/>>, or to the Assistant Dean of Students, Director of Student Conduct and Community Standards in the Division of Student Life <tonya.schmidt@wisc.edu>. UW Madison employees may also contact Workforce Relations in the Office of Human Resources <<https://www.ohr.wisc.edu/workforce/>>.

Resources

Some of the Title IX resources at UW-Madison are listed below.

1. Title IX information and resources, including contact information for university officials responsible for Title IX compliance <<https://compliance.wisc.edu/titleix/>>
2. Reporting allegations of sexual assault, dating/domestic violence and stalking to the Dean of Students Office <<https://www.students.wisc.edu/doso/>>
3. Information and resources from the Division of University Health Services <<http://uhs.wisc.edu/assault/>> and UHS EVOC: End Violence on Campus <<http://uhs.wisc.edu/evoc/>> addressing sexual assault, dating/domestic violence, and stalking
4. Sexual harassment information and resources are also available on the website of the Office for Equity and Diversity at <https://oed.wisc.edu/sexual-harassment-information.htm>.
5. A brochure entitled, “Sexual Harassment: Defining and Addressing a Community Concern,” <<http://oed.wisc.edu/documents/SexualHarassmentBrochure.pdf>> is available in hard copy format from the Title IX Coordinator in the Office of Compliance, the Office for Equity and Diversity, and the Office of the Provost.
6. Information and resources regarding compliance with the Jeanne Clery Disclosure of Campus Security Policy & Campus Crime Statistics Act (Clery Act) <<http://uwpd.wisc.edu/crime-data/clery-act/>>
7. Information and resources available through the UW-Madison Police Department <<http://uwpd.wisc.edu/>>

Informational sessions regarding sexual harassment and sexual violence are available to any campus unit, upon request. Faculty and staff with Limited Appointment titles are required to attend an informational session. If you wish to schedule one of these informational sessions for your unit, please contact Kathryn (Kate) O’Connor, Office for Equity and Diversity, (608) 263-2378 or kate.oconnor@wisc.edu. Additional questions about this campus-wide initiative may be directed to Luis A. Piñero at (608) 263-2378 or luis.pinero@wisc.edu, Wisconsin Telecommunications Relay Service, 7-1-1.