



EAST-WEST
CENTER

Responsible Employees:
Responding to Disclosures
East-West Center

Agenda

01

Review Applicable Laws, Regulations, and Policies

02

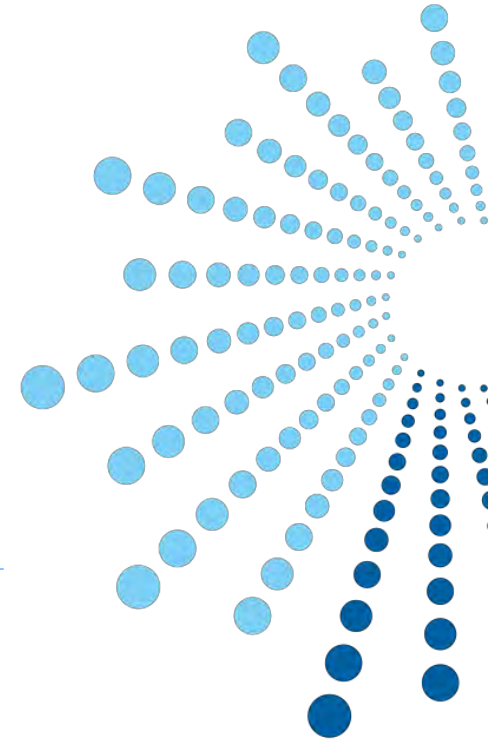
Reporting: Who, What, How, When, Where

03

Trauma-Informed Response

04

Practical Application: How to Make a Report



Goals of Training



Understand the role of the responsible employee



Review various, sometimes overlapping reporting obligations



Fulfill your reporting obligations



Respond to disclosures in a trauma-informed manner



Balance the obligations to a complainant, with support of the accused

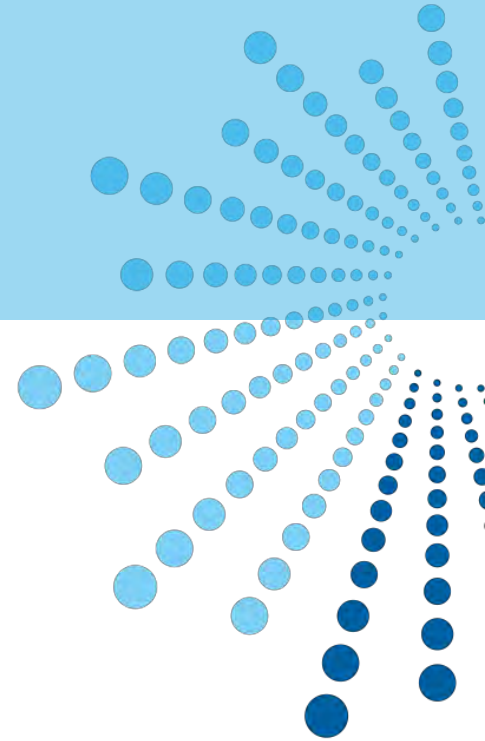


Review

Applicable Laws, Regulations, and Policies

01

GRAND RIVER SOLUTIONS



“

The East-West Center is committed to fostering an environment that is free from unlawful discrimination on the basis of sex, including sexual harassment and sexual assault. The East-West Center does not discriminate on the basis of sex, sexual orientation, gender, and/or gender identity or expression in the educational programs or activities it operates.

East-West Center
Title IX Website

”

Policy Against Harassment, Discrimination, and Sexual Misconduct

This Policy prohibits harassment and discrimination on the basis of race, color, religion, age, disability, sex, gender, gender-identity or expression, sexual orientation, pregnancy, sexual orientation, marital status, national origin, ancestry, genetic information, military/veteran's status, citizenship, arrest and court record, credit history, income assignment for child support, domestic or sexual violence victim status, engagement in protected activity (e.g., opposition to prohibited discrimination or participation in the statutory complaint process), or any other category protected by law. This policy further prohibits sexual harassment, sexual assault, dating violence, domestic violence, and stalking on the basis of sex.

Appendix A

Title IX Policy

Applies to conduct that falls within the scope of Title IX.

Complies with all of the requirements of Title IX

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Sexual Harassment: *Section 106.30*

Sexual harassment means 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).

Applicable Laws & Regulations

Title VI applies in schools, colleges, universities, to students

Title VII applies in the workplace, to employees

Title IX applies in schools, colleges, universities, to students and employees

Section 504 applies in schools, colleges, universities, to students and employees

Clery Act requires reporting of defined conduct

VAWA requires certain reporting, procedural, policy, and training requirements

To create an environment free from discrimination and harassment, we must:

Recognize discrimination and harassment when it occurs.

Report it so that appropriate, trained staff may respond.

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What are examples of discrimination?

Not allowing someone into a club because of their perceived sexual orientation.

Refusing to hire or promote someone based on a perceived or actual disability.

Discouraging someone from attending a conference because of their gender identity or expression.

Reducing someone's job responsibilities due to their pregnancy or status as a parent.

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These might be discriminatory harassment:

Suggestive or sexual comments

Frequent touching

Comments (including compliments) about someone's body

Circulating offensive images based on protected class

The use of slurs and stereotypes related to a protected class

Name calling related to a protected class

Intimidation, mockery, or ridicule connected to a protected class

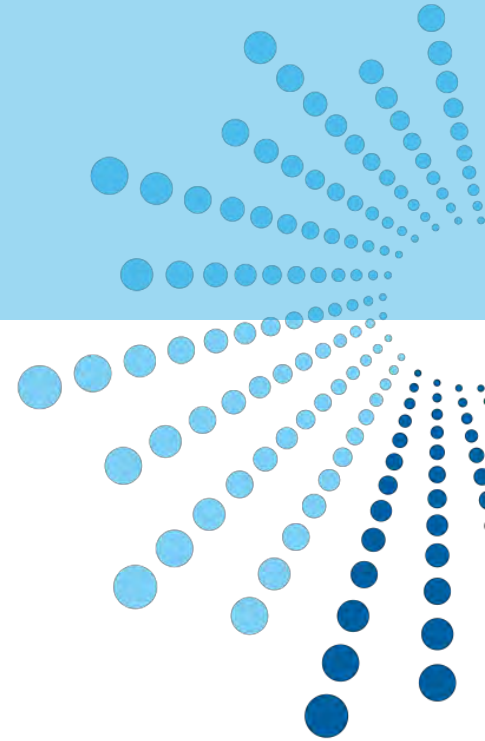


Reporting

Who, What, How, When, and Where

02

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Policy Against Harassment, Discrimination, and Sexual Misconduct

- Any East-West Center employee who witnesses, is advised of, or learns about an alleged violation of this Policy must promptly notify the Title IX Coordinator or the Director of Human Resources of the allegation.
- The employee must report all relevant details about the alleged misconduct known to the employee or shared with them.

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These Things Must Be Reported to the Title IX Coordinator or the Director of Human Resources

Sexual Harassment

Harassment or Discrimination

Sexual Assault

Stalking

Dating, Domestic Violence

If it is sexual, or on the basis of sex, report it to the Title IX Coordinator or the Director of Human Resources.

What is
“on the
basis of
sex”?

- Sexual orientation
- Transgender status
- Sexual identity
- Sex or gender

If it is related to a protected class, report it to the Title IX Coordinator or the Director of Human Resources.

**What is a
“protected
class”?**

race, color, religion, national origin, sex, pregnancy, sexual orientation, gender identity, gender expression, parental status, marital status, age, disability, citizenship status, veteran status, genetic information, reproductive health decision making, or any other classification protected by law

Why Do I Have to Report?



Problems would otherwise go unaddressed.



It is required by the law and East-West Center policy.



Making an informed decision requires knowledge – autonomy and agency start AFTER information is provided.

Also, There Are Legal Requirements

Certain individuals at the institution are “responsible employees” which means, effectively, everything they know = the school knows, and has a duty to respond.

These responsible employees are responsible for referring all of their known information to the Title IX Coordinator or Director of Human Resources.

So, who are these responsible employees?

Remember...

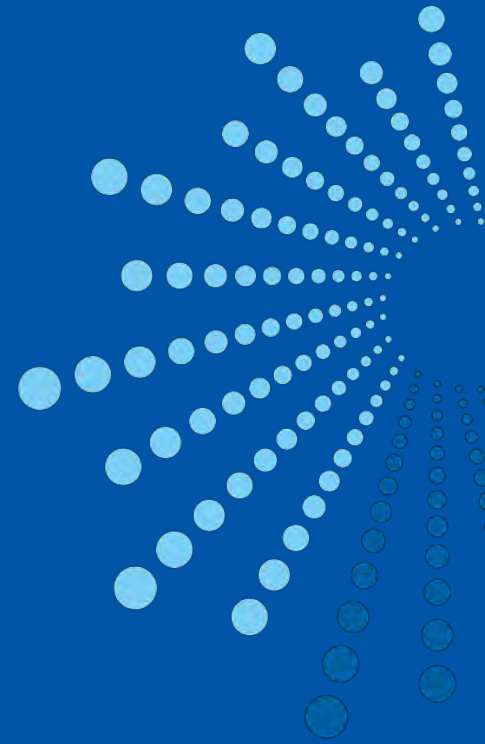
All employees of the East-West Center are required to report any alleged violations of this Policy.

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If You Hear It – Report It

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Trauma-Informed Response

03

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"But I have no idea what to say"



Listen



Respond with
empathy



Report it to the
Title IX
Coordinator or the
Director of Human
Resources

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People Disclose in Different Ways

Some people will come right out and say what happened.

Sometimes it comes directly from a colleague or friend.

Some have other ways of explaining:

- I am uncomfortable.
- I don't feel safe.
- I can't be near them anymore.

People Respond in Different Ways

May be hysterical, may be calm

Might be crying, might seem "fine"

Might not seem upset at all

None of this proves whether or not anything happened.

First Response

- Safety first!
- I hear you; thank you.
- Can we walk together (call together) to the office?
- Here is what I will do with your information.
- Check back in!

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Never the Right Response:



Ask enough questions to find out what happened.



Make a determination about what happened.



Consider discipline or take it if you think it is appropriate.



Make sure what happened isn't just a rumor.



Come to an agreement about how to proceed.



Promise the actions that will be taken correct the situation.

You are a conduit for information



You pass along what you know to the Title IX Coordinator or Director of Human Resources - they will figure out what to do about it.



You do not "vet" and contact Title IX only when you believe that the policy was violated.

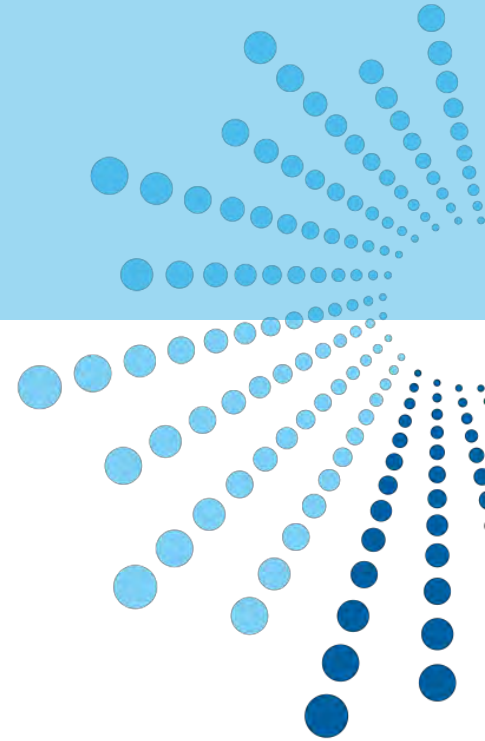


Practical Application

How to Make a Report

04

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What Do I Report?

You report what you know: no more, no less.

Names and other details – dates, location, etc.

If you took notes, share the notes.

Practice Scenario One

A supervisor receives the following email message from Jay, one of their employees:

Good morning:

I am reaching out to see if I could get an extension on the project that is due tomorrow. I have recently gone through a breakup and my ex-partner is calling and texting me constantly and it is making it really hard for me to focus. I am sorry to ask, but would really appreciate any extra time.

Thanks, Jay

Practice Scenario Two

Jennifer arrives late to her appointment with you to talk about her research. When she comes in, she apologizes profusely and says that she overslept because her roommate and her roommate's girlfriend were arguing loudly all night.

After you talk about her research, you ask how she is doing overall. Jennifer confides that the situation with her roommate and her roommate's girlfriend is really impacting her ability to sleep and get her work done and that she is really concerned about her roommate. She says that her roommate says everything is fine, but sometimes Jennifer hears what sounds like physical fighting through the walls.

You know that Jennifer's roommate is Kelly, another person studying at the Center.

What Happens Next?

Title IX Coordinator analyzes the report to determine if it MIGHT be a violation of policy

Outreach

Formal complaint (possibly)

Notice to parties (if Formal Complaint)

Investigation, Hearing (possibly)

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Reluctant Complainants

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Reasons for Reluctance

Fear of retaliation

Fear of the process

"I don't want to get them in trouble"

"I can handle this"

Expectation that the institution will fail



Confidentiality/Privacy

- People who can keep information fully confidential and tell no one: therapists, doctors, lawyers, clergy who are ***employed in and acting in*** that role at the time of disclosure.
- You cannot promise confidentiality. BUT, you cannot share the information with others beyond the Title IX Coordinator, Director of HR, or those involved in an investigation, if one occurs. You may not share with colleagues within or outside of the University.
- Private – East-West Center keeps all information *private*, meaning no sharing unless absolutely necessary.
- Family Educational Rights and Privacy Act (FERPA)

Confidential Resources

National Sexual Assault Hotline

- 1-800-656-4673

National Sexual Violence Resource Center

- <https://www.nsvrc.org/find-help>

Hawai'i Coalition Against Sexual Assault

- 1-808-533-1637

Hawai'i Coalition Against Domestic Violence

- <https://www.hscadv.org/get-help/>

Practice Scenario Three

You are having lunch with Marc, a friend and colleague who works in a different department at the Center. You notice that he doesn't seem like himself and you ask him what's wrong. Marc eventually tells you that he is really struggling with his supervisor, Kate. Kate often asks Marc to work late one on one with her, and Marc says that makes him really uncomfortable. When you ask why, Marc says that Kate flirts with him when they are alone and unnecessarily and excessively touches him on the arm, shoulders, or back.

When you express concern and tell him that Kate's behavior is not okay, he pleads with you not to tell anyone.

Supporting Complainants

Things to Keep in Mind

- **Common Myths**

- Why didn't you just run out?
- Why couldn't you just scream "No"?
- Why were you even sitting in the room alone?
- Why did you wait so long to report?

- **Common Behaviors**

- 42% of those who were raped reported later having consensual sex with the men who raped them.
- Victims who try to "make it all better" for the respondent.
- Dating/domestic violence – many victims stay in the relationship.

Supporting Respondents

Things to Keep in Mind

Allegations do not equal
guilt/responsibility

Respondents are entitled
to a fair process under the
Center's policies

Being subject to an
accusation and/or
investigation can be very
stressful

Respondents have access
to supportive measures
through EWC

The Respondent is a
member of the
community and entitled to
the same support, access,
and resources as the
Complainant

It is not your job to
determine what did and
did not happen

Practice Scenario Four

Chris, who is studying at the Center, comes to you and tells you that they have been accused of sexually harassing another individual also studying at the Center. Chris shares that the investigation process has been very difficult and seeing the other student on campus causes Chris a lot of anxiety, which is making getting their research done very difficult.

Chris doesn't know what to do and asks for your advice.

Retaliation

The Center expressly prohibits retaliation against an individual who has complained of harassment relative to the protected categories. In addition, retaliation against parties directly or indirectly involved in a harassment complaint or individuals who have cooperated or will cooperate with a harassment investigation is prohibited and will not be tolerated.

Retaliation is defined as any materially adverse action against a person who reports, complains about, or who otherwise engages in protected activity under this policy, which includes making a good faith report (internally or externally) of Prohibited Conduct, assisting others in making such a report, participating in a grievance process under this Policy, acting in good faith to oppose conduct that constitutes a violation of this Policy, or otherwise assisting in an investigation or proceeding related to an alleged violation of this Policy.

Materially adverse action includes conduct that threatens, coerces, harasses or otherwise discourages participation in or activity under this policy.

Retaliation

Your Obligations

- Talk openly about its prohibition
- Keep an eye out for it
- Report it immediately if you see or suspect retaliation



Practice Scenario Five

Because you were so helpful before, Chris comes back to you when they are experiencing another problem. The student who has accused Chris of sexual harassment, Pat, is the mentee of a prominent specialist at the Center, Dr. Smith. Dr. Smith and Pat are very close, and Pat has told Dr. Smith about the investigation.

Dr. Smith is in charge of selecting fellows for a program Chris wants to participate in and Chris does not feel as though Dr. Smith is treating them fairly and is intentionally making the application process unnecessarily difficult for Chris by requiring them to provide additional letters of recommendation, etc.

For more information on East-West Center policies and procedures:

Title IX Coordinator

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