

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY

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Title IX Coordinator

ETBU SIM TEAM

Title IX Coordinator

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Title IX Coordinator

Communicate with all members of the University community regarding applicable law and policy

Provide information about how individuals may access reporting and support options.

Monitor the University's administration of its own applicable policies.

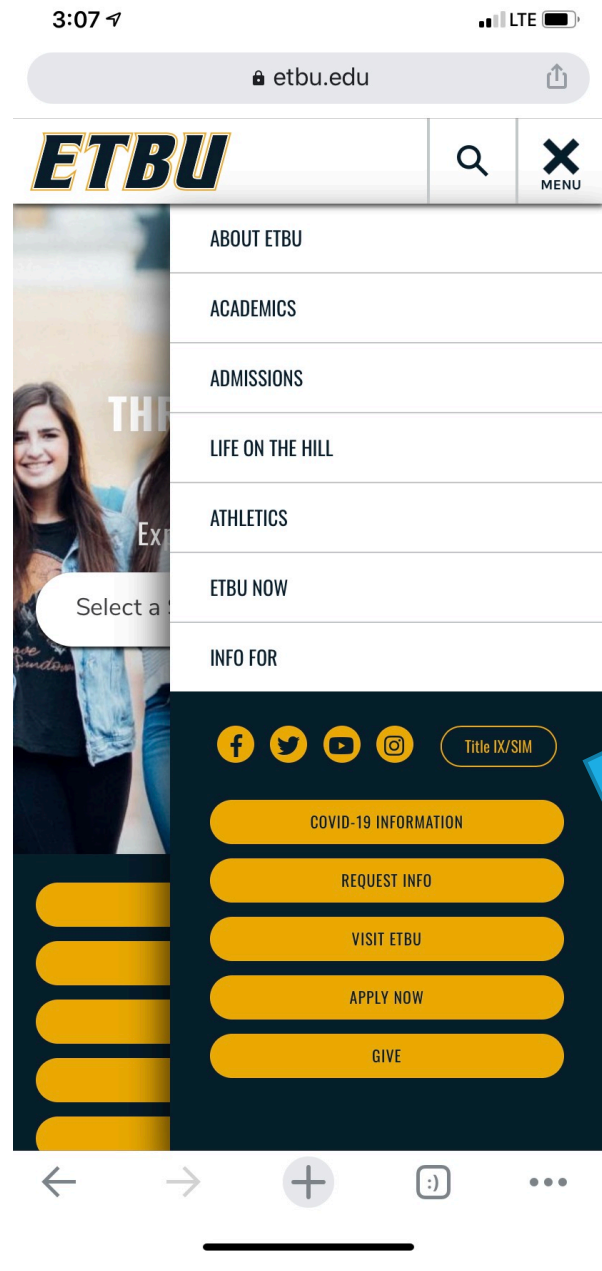
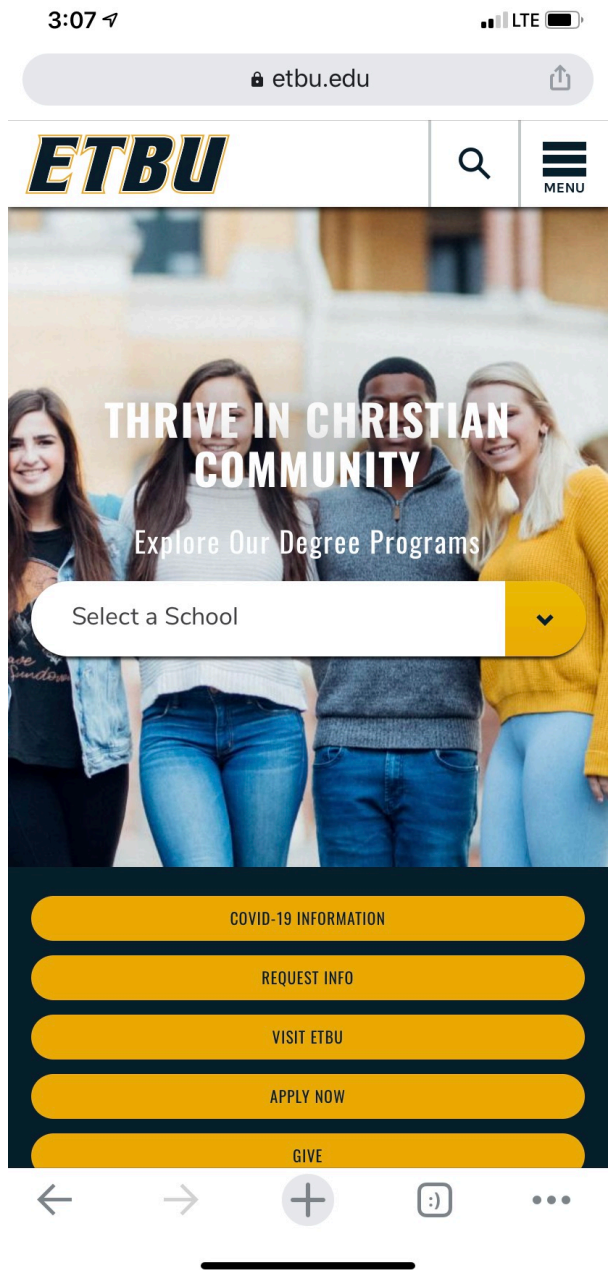
Conduct or arrange for training regarding Title IX, VAWA, and Prohibited Conduct.

Respond to any report regarding conduct that may violate this policy.

Title IX

- "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance."

-Title IX of the Educational Amendments of 1972 to the 1964 Civil Rights Act





ABOUT ETBU

ACADEMICS

ADMISSIONS

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ETBU NOW

INFO FOR



- COVID-19 INFORMATION
- REQUEST INFO
- VISIT ETBU
- APPLY NOW
- GIVE

THRIVE IN CHRISTIAN COMMUNITY

A TO Z INDEX	AT A GLANCE	CAMPUS OFFICES ▶	EMPLOYMENT OPPORTUNITIES ▶	FACULTY AND STAFF	FAQS	GIVE	HISTORY	HUMAN RESOURCES	PRESIDENT J. BLAIR BLACKBURN
EXPECTATIONS OF ETBU STUDENTS AND UNIVERSITY COMMUNITY CODE OF CONDUCT			TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY ▶	PRIVACY POLICY	CONTACT US				

ABOUT ETBU
A TO Z INDEX
AT A GLANCE
CAMPUS OFFICES
EMPLOYMENT OPPORTUNITIES
FACULTY AND STAFF
FAQS
GIVE
HISTORY
HUMAN RESOURCES
PRESIDENT J. BLAIR BLACKBURN
EXPECTATIONS OF ETBU STUDENTS AND UNIVERSITY COMMUNITY CODE OF CONDUCT
TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY

ABOUT ETBU >

Title IX/Sexual and Interpersonal Misconduct (SIM) Policy



Policy Overview

East Texas Baptist University is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community.

East Texas Baptist University does not unlawfully discriminate on the basis of sex in any of its education or employment programs and activities, and it does not tolerate unlawful discrimination or harassment on the basis of sex. This Sexual and Interpersonal Misconduct (SIM) policy prohibits: 1) sexual harassment as defined by Title IX (Title IX Sexual Harassment); and 2) certain other forms of sexual and interpersonal misconduct not covered by Title IX (e.g., certain types of sexual and gender-based harassment, sexual assault, sexual exploitation, stalking, intimate partner violence, retaliation, and complicity (Non-Title IX Misconduct), collectively referred to in the SIM policy as Prohibited Conduct. These forms of Prohibited Conduct are harmful to the well-being of

Title IX Key Points

- When a school **knows or reasonably should know** of possible **sexual violence**, it must take **immediate and appropriate steps** to investigate or otherwise determine what occurred
- If an investigation reveals that sexual violence created a **hostile environment**, the school must then take **prompt and effective steps** reasonably calculated to:
 - Eliminate the hostile environment
 - Prevent its recurrence
 - Address its effects
- School must protect the complainant and ensure his or her safety as necessary, including taking interim steps before the final outcome of any investigation

Title IX Key Points

- Requires grievance procedures for “**prompt and equitable**” resolution of student, employee, and third-party complaints;
- A school violates Title IX if it “**has notice**” of a sexually hostile environment and fails to take immediate and effective corrective action.
- A school has notice if a **responsible employee knew or, in the exercise of reasonable care, should have known** about the harassment.

Responsible Employees

- ETBU has identified the following individuals as responsible employees:
 - Staff (hourly, salary, full-time, part-time)
 - Faculty (full-time, adjunct)
 - Resident Assistants
 - Graduate Assistant Coaches
 - Student workers who have supervisory responsibility or responsibility for the welfare of other students and learn of potential violations of the SIM policy in the scope of their employment.

Responsible Employees – Mandatory Reporting

- **SB 212 – Texas State Law**
- **Mandatory Reporting** obligations for **responsible employees** of student and employee matters to the Title IX Coordinator
- Consequences of Failure to Report
 - Class B misdemeanor (maximum of 180 days in jail and/or fine \$2,000) – If fails to report or known false reporting
 - Class A misdemeanor (one year in jail and/or fine \$4,000) – if intended to conceal incident
 - Institution **must terminate** if “determines in accordance with institution’s disciplinary procedure to have” not made required report.
 - Must report “all information concerning the incident known to reporting person”
 - **Exceptions:** Confidential employees, when incident occurs to employee (self), disclosure at public awareness event

Confidential Resources

The University has designated limited categories of employees as Confidential Resources with whom students may speak confidentially concerning Prohibited Conduct.

ETBU Counseling Care Center Employees – counselingcenter@etbu.edu, 903-923-2360, located in the Jarrett Library building

ETBU Sisk Health Services Clinic – 903-923-2355, located in Bennett Student Commons

Dean of Spiritual Life – Dr. Scott Stevens, sstevens@etbu.edu 903-923-2173, located in the Rogers Spiritual Life Center

How To Report

- Make a report to ETBU's Title IX Coordinator, Mrs. Tara Bachtel
- In person, HR office located on the 3rd floor of Marshall Hall
- By phone at 903-923-2119
- By email at titleix@etbu.edu or tbachtel@etbu.edu
- Online at www.etbu.edu/titleix or www.etbu.edu/sim

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY

CONSENT HIGHLIGHTS

EMERGENCY RESOURCES HIGHLIGHTS

INTERIM/SUPPORTIVE MEASURES & RESOLUTION OPTIONS HIGHLIGHTS

PROHIBITED CONDUCT

REPORTING & CONFIDENTIALITY HIGHLIGHTS

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT POLICY (SIM) POLICY TRAINING RESOURCES

TITLE IX/SIM REPORT

ABOUT ETBU > TITLE IX/SIM >

Reporting and Confidentiality

The University encourages all individuals to report Prohibited Conduct of the Title IX/Sexual and Interpersonal Conduct Policy (SIM) or a potential violation of Title IX/SIM to the Title IX Coordinator, the East Texas Baptist University Security Department, and/or to local law enforcement. A complainant has the right to report, or decline to report, potential criminal conduct to law enforcement, and/or to be assisted by the University in reporting potential criminal conduct to law enforcement at any time. Under limited circumstances deemed by the University to pose a threat to the health or safety of any University community member, the University may independently notify law enforcement.

An individual may make a report of Prohibited Conduct or potential criminal conduct to the University, to law enforcement, to neither, or to both. Campus investigations of Prohibited Conduct and law enforcement investigations operate independently of one another, although the University will coordinate as appropriate. Anyone can make a report as follows:

- Make a report to the Title IX Coordinator in person, by telephone at 903.923.2119, by email at titleix@etbu.edu, or online at www.etbu.edu/titleix.
- If on campus, contact the East Texas Baptist University Security Department for assistance in filing a criminal complaint and preserving physical evidence at 903.923.2323.
- If off campus, contact local law enforcement to file a criminal complaint at 903.935.4575 or 911.

MAKE A TITLE IX/SIM REPORT

Anonymous Reporting

Anyone can make an anonymous report by submitting information on the East Texas Baptist University Title IX website: www.etbu.edu/titleix. Based on the nature of the information submitted, the University's ability to respond to an anonymous report may be limited.

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY
CONSENT HIGHLIGHTS
EMERGENCY RESOURCES HIGHLIGHTS
INTERIM/SUPPORTIVE MEASURES & RESOLUTION OPTIONS HIGHLIGHTS
PROHIBITED CONDUCT
REPORTING & CONFIDENTIALITY HIGHLIGHTS
TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT POLICY (SIM) POLICY TRAINING RESOURCES
TITLE IX/SIM REPORT

Title IX/SIM Report

Please take your time and provide as much detail as possible, but exercise care to not provide details that may reveal your identity unless you wish to do so. It may be important to know if you were the only person aware of this situation.

WHAT IS YOUR AFFILIATION WITH ETBU?	DO YOU WISH TO REMAIN ANONYMOUS FOR THIS REPORT?
<input type="text" value="- None -"/>	<input type="text" value="- None -"/>

If you want ETBU to know your identity, please complete the following:

YOUR NAME	EMAIL:
<input type="text"/>	<input type="text"/>
PHONE NUMBER:	BEST TIME FOR COMMUNICATION WITH YOU:
<input type="text"/>	<input type="text"/>
PLEASE IDENTIFY THE PERSON(S) ENGAGED IN THIS BEHAVIOR: EXAMPLE: JOHN DOE, DIRECTOR OF INTERNAL AUDIT	WHAT IS THE GENERAL NATURE OF THIS MATTER? THIS SHOULD BE A GENERAL DESCRIPTION ONLY.
<input type="text"/>	<input type="text"/>
WHERE DID THIS INCIDENT OR ALLEGED VIOLATION OCCUR?	
<input type="text"/>	
PLEASE PROVIDE THE SPECIFIC OR APPROXIMATE DATE AND TIME THIS INCIDENT OCCURRED:	
<input type="text"/>	

Sexual and Interpersonal Misconduct Policy (SIM)

- The ETBU Sexual and Interpersonal Misconduct Policy (SIM) prohibits:
 - 1) sexual harassment as defined by Title IX (Title IX Sexual Harassment); and
 - 2) certain types of sexual and interpersonal misconduct not covered by Title IX (e.g., certain types of sexual and gender-based harassment, sexual assault, sexual exploitation, stalking, intimate partner violence, retaliation, and complicity (Non-Title IX Misconduct))
- - collectively referred to in the ETBU SIM Policy as **Prohibited Conduct**

Scope of Policy

Policy Applies to:

- ETBU Students
- ETBU Faculty and Staff
- Third Parties (i.e., non-members of the University community, such as vendors, alumni/ae, and visitors)

Applies to Conduct:

- on campus or University-owned property;
- in the context of any University-related or sponsored education program or activity, regardless of the location
- by an ETBU student, regardless of location, under the Student Conduct Code;
- by an ETBU employee, regardless of location;
- through the use of University-owned or provided technology resources; or
- when the conduct has a nexus to the University, such as continuing adverse effects or the creation or continuation of a hostile environment on campus.

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY
CONSENT HIGHLIGHTS
EMERGENCY RESOURCES HIGHLIGHTS
INTERIM/SUPPORTIVE MEASURES & RESOLUTION OPTIONS HIGHLIGHTS
PROHIBITED CONDUCT
REPORTING & CONFIDENTIALITY HIGHLIGHTS
TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT POLICY (SIM) POLICY TRAINING RESOURCES
TITLE IX/SIM REPORT

Prohibited Conduct

Title IX Sexual Harassment

Under Department of Education regulations (see 34 C.F.R., Part 106) issued in 2020 to implement Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., the University is required to prohibit certain forms of sexual harassment as defined in those regulations. Title IX Sexual Harassment is Prohibited Conduct of the following types committed by or against Students and/or Employees in an education program or activity of the University, in the United States:

Prohibited Conduct meets the definition of Title IX Sexual Harassment when:

- An Employee conditions the provision of an aid, a benefit, or a service on another Employee's or a Student's participation in unwelcome sexual conduct (i.e., *Quid Pro Quo* sexual harassment); or
- A Student, Employee, or Third Party (to the extent applicable) engages in unwelcome conduct on the basis of sex that would be determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies another person equal access to the University's programs or activities; or
- A Student, Employee, or Third Party engages in Sexual Assault, Domestic Violence, Dating Violence, or Sexual and/or Gender-based Stalking as defined below; and
 - The alleged conduct was perpetrated against a person in the United States; and
 - The conduct took place within the University's programs and activities.

Conduct takes place within the "University's programs and activities" when that conduct occurs:

1. in a location, at an event, or in circumstances where the University exercises substantial control over both the respondent and the context in which the conduct occurs; or
2. in any building owned or controlled by a student organization recognized by the University. Events that occur off campus or in locations with no connection to the University are unlikely to be considered a University program or activity.

Conduct that does not meet the parameters above to constitute Title IX Sexual Harassment is still prohibited by this policy if it otherwise constitutes Prohibited Conduct as further defined below.

What to Report

- Alleged conduct that if true would be categorized as prohibited conduct (detailed on the next few slides)...
- Involving an ETBU student, ETBU employee (faculty or staff), and/or a third-party (vendor, alumni, visitor, etc.)...
- That occurs ANYWHERE! There are different reporting requirements for Title IX, Clery, and VAWA.
- When in doubt, report to the Title IX Coordinator.

Prohibited Conduct

Two Categories

Title IX Sexual Harassment

Non-Title IX Sexual Misconduct

Title IX Sexual Harassment

- **Title IX *Quid Pro Quo* Sexual Harassment** – conduct on the basis of sex by which an **employee** of the University conditions the provision of an aid, benefit, or service of the University on a student's or employee's participation in unwelcome sexual contact
- **Title IX Severe, Pervasive and Objectively Offensive Sexual Harassment** – conduct on the basis of sex that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that is effectively denies another person equal access to the University's education program or activity

Relationships with Individuals in Authority

Engaging in romantic relationships and/or sexual conduct is prohibited between:

- Faculty members and undergraduate students
- University employees and undergraduate students
- Graduate students and undergraduate students where the graduate student educates, advises, coaches, supervises, or evaluates the undergraduate in any way
- Employees and any individual whom that person supervises or evaluates in anyway

Title IX Sexual Assault Definition

- Title IX sexual assault includes rape, fondling without consent, incest or statutory rape, defined as follows:
 - - **Rape** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral genital contact of another person without consent.
 - - **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without consent.
 - - **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - - **Statutory rape** is sexual intercourse with a person who is under the statutory age of consent. Under Texas law, individuals younger than 17 years of age are legally incapable of giving consent to sexual penetration or contact by an adult (someone 18 years of age or older) who is three or more years older than the individual.

Title IX Sexual Harassment

- **Title IX Domestic Violence** – conduct that constitutes a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the complainant; by a person with whom the complainant shares a child in common; by a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Title IX Dating Violence** – conduct that constitutes **violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.** The existence of such a relationship shall be determined based on the parties' statements and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between persons involved in the relationship.

Title IX Sexual Harassment

- **Title IX Stalking** – conduct on the basis of sex that constitutes 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.

Non-Title IX Misconduct

Non-Title IX Misconduct is Prohibited Conduct that falls within the Scope of the Sexual and Interpersonal Misconduct (SIM) Policy and the definitions but that does not fall within the definition of Title IX Sexual Harassment, either:

- - due to the nature of the conduct; or
- - because it did not reportedly occur within a program or activity of the University in the United States.

SIM Non-Title IX Prohibited Conduct

- Non-Title IX Sexual Assault
- Non-Title IX Domestic Violence
- Non-Title IX Dating Violence
- Non-Title IX Stalking
- Non-Consensual Sexual Contact
- Sexual or Gender-Based Harassment
- Sexual Exploitation
- Retaliation
- Complicity

Non-Title IX Misconduct

Sexual Exploitation - any act where one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another, but that does not fall within the definition of Title IX Sexual Harassment.

Sexual exploitation may include:

- - surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- - recording, photographing, transmitting, showing, viewing, streaming, or distributing intimate or sexual images, audio recordings, or sexual information without the knowledge and consent of all parties involved;
- - providing alcohol or drugs to a complainant with the intent to facilitate Prohibited Conduct; or
- - exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances.

Non-Title IX Misconduct

- **Retaliation** means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding Prohibited Conduct (including both Title IX Sexual Harassment and Non-Title IX Misconduct).
- **Complicity** is any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY

CONSENT HIGHLIGHTS

EMERGENCY RESOURCES HIGHLIGHTS

INTERIM/SUPPORTIVE MEASURES & RESOLUTION OPTIONS HIGHLIGHTS

PROHIBITED CONDUCT

REPORTING & CONFIDENTIALITY HIGHLIGHTS

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT POLICY (SIM) POLICY TRAINING RESOURCES

TITLE IX/SIM REPORT

ABOUT ETBU > TITLE IX/SIM >

Emergency Resources and Law Enforcement

Emergency medical assistance and campus safety/law enforcement assistance are available both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being, or following a potential criminal offense. **It is very important for victims of sexual harassment, sexual assault, dating violence, or stalking to go to a hospital for help with treatment and preservation of evidence, if applicable, as soon as practicable after an incident.**

To contact law enforcement: call the East Texas Baptist University Security Department at 903.923.2323 or, if off campus, Marshall Police Department at 903.935.4575. In an emergency, call 911.

Local Hospitals and Medical Centers

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Crisis Counseling and Other Community Resources

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Campus Confidential Resources

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What the TIXC does with your Report

- Follow up with you for more information (if needed)
- Reach out to the complainant (initially by email and then a follow-up call) to determine interim/supportive measures and schedule a meeting (virtual or in-person)
- Report to Larry Northcutt (Director of Security) with any safety concerns, Clery-reportable incidents, interim measures (no-contact directive)
- Meet with complainant to explain the SIM process and communicate **all.the.things!**
- The **complainant** determines next steps...

Interim and/or Supportive Measures (available with or without filing a formal complaint)

- Access to counseling
- Access to medical services
- Academic accommodations
- Modifications of work schedules
- Mutual restrictions on contact between parties
- Residential accommodations
- Leaves of absence
- Increased security and monitoring of certain campus areas
- Changing transportation arrangement
- Assisting the individual in accessing support services
- Assistance in obtaining a sexual assault forensic examination
- Assistance in rescheduling exams and assignments
- Escort and other safety planning steps
- Referral to resources that can assist in obtaining a protective order under Texas law
- Any other measure that can be used to achieve the goals of this policy

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY

CONSENT HIGHLIGHTS

EMERGENCY RESOURCES HIGHLIGHTS

INTERIM/SUPPORTIVE MEASURES & RESOLUTION OPTIONS HIGHLIGHTS

PROHIBITED CONDUCT

REPORTING & CONFIDENTIALITY HIGHLIGHTS

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT POLICY (SIM) POLICY TRAINING RESOURCES

TITLE IX/SIM REPORT

ABOUT ETBU > TITLE IX/SIM >

Interim/Supportive Measures & Resolution Options

Interim and/or Supportive Measures

Upon receipt of a report of Prohibited Conduct under the Title IX/Sexual and Interpersonal Misconduct (SIM) Policy, the University will consult initially with the complainant and provide reasonable and appropriate interim and/or supportive measures designed to preserve the parties' educational experiences; protect the parties during an investigation; address safety concerns for the broader University community; maintain the integrity of the investigative and/or resolution process; and/or deter retaliation. At the appropriate time, the University will also consult with the respondent regarding interim and/or supportive measures.

Interim and/or supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University's educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or educational environment of East Texas Baptist University, or deter sexual harassment. Interim measures are services provided to a party while an investigation and resolution process is pending, while supportive measures may be provided at any time, regardless of whether an investigation and resolution process has been initiated or completed.

The University will provide reasonable interim or supportive measures to third parties as appropriate and available, taking into account the role of the third party and the nature of any contractual relationship with the University.

Requests for interim or supportive measures may be made by either party to the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of interim or supportive measures and coordinating the University's response with the appropriate offices on campus. The Title IX Coordinator has the discretion to impose and/or modify any interim or supportive measure based on all available information and is available to meet with a complainant or respondent to address concerns about the provision of interim or supportive measures.

The Investigation Process

1. File a **formal complaint**.
2. Appropriate interim safety measures with or without filing a formal complaint.
3. Investigation by trained investigators
 - a) Confidential, to the extent possible
 - b) Both parties will have opportunity to present witnesses and evidence, and will have the opportunity to be accompanied by an advisor
 - c) Final report issued by investigator with notification to both parties
 - d) Each party will have the option to cross-examine (through an advisor) the other party and/or witnesses during the live hearing.

Permanent Remedies & Sanctions

If a person is found responsible for violating the ETBU Sexual and Interpersonal Misconduct (SIM) Policy, possible remedies and sanctions can include:

- Warning
- Disciplinary Probation
- Restitution
- Residential or Other Facilities Restrictions or Removal
- Withholding of Degree
- Suspension
- Suspension with Conditions
- Expulsion
- The following outcomes may accompany the preceding sanctions, as appropriate:
 - Community Service
 - Restriction of Access to Space, Resources, and Activities
 - Education Programs
 - No Contact Directives

Signs of Sexual Assault

- Fear responses
- Pervading sense of anxiety
- Problems concentrating
- Guilty feelings
- Developing negative self image
- Anger or Depression
- Disruptions in relationships
- Self-injury
- Inadequate personal hygiene
- Drug and alcohol abuse
- Sexual promiscuity
- Depression, anxiety
- Suicide attempts
- Compulsive eating or dieting

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT (SIM) POLICY

CONSENT HIGHLIGHTS

EMERGENCY RESOURCES HIGHLIGHTS

INTERIM/SUPPORTIVE MEASURES & RESOLUTION OPTIONS HIGHLIGHTS

PROHIBITED CONDUCT

REPORTING & CONFIDENTIALITY HIGHLIGHTS

TITLE IX/SEXUAL AND INTERPERSONAL MISCONDUCT POLICY (SIM) POLICY TRAINING RESOURCES

TITLE IX/SIM REPORT

ABOUT ETBU > TITLE IX/SIM >

Title IX/Sexual and Interpersonal Misconduct (SIM) Training Resources

Student and Employee Title IX/SIM Training Resources

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Title IX Team Training Resources

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	NAME/TITLE	DIVISION	PHONE		
	Tara Bachtel Associate VP, Human Resources Title IX Coordinator	Financial Affairs	903.923.2119	Send Message	View Bio

Resources

- **Counseling Care Center** 903-923-2360
- **ETBU Sisk Health Services Clinic** 903-923-2355
- **Spiritual Development Office** 903-923-2173
- **ETBU Security** 903-923-2323
- **Women's Center of East Texas** 800-441-5555
- **Tara Bachtel, Title IX Coordinator** 903-923-2119

QUESTIONS??
