

Confidentiality and Sexual Misconduct

A complainant may request that his/her name not be disclosed to alleged perpetrators or that no investigation or disciplinary action be pursued to address the Sexual Misconduct, particularly in cases of sexual violence. Towson University supports a student's interest in confidentiality in cases involving sexual violence. However, there are situations in which the university must override a student's request for confidentiality in order to meet its obligations. These instances will be limited and the information will be maintained in a secure manner and will only be shared with individuals who are responsible for handling the university's response to the incident of sexual misconduct.

Even if a complainant does not specifically ask for confidentiality, to the extent possible, the university will only disclose information regarding alleged incidents of sexual violence to individuals who are responsible for handling the university's response.

The university will notify students of the information that will be disclosed, to whom it will be disclosed, and why.

If a complainant requests that his/her name not be revealed to the alleged perpetrator or asks that the university not investigate or seek action against the alleged perpetrator, the university will inform the student that honoring the request may limit its liability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The university will also explain that Title IX includes protections against retaliation, and that university officials will not only take steps to prevent retaliation but will also take responsive action if it occurs.

If the complainant still requests that his/her name not be disclosed to the alleged perpetrator or that the university not investigate or seek action against the alleged perpetrator, the university will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the complainant.

If the university determines that it can respect the complainant's request not to disclose his/her identity to the alleged perpetrator, it should take all reasonable steps to respond to the complaint consistent with the request. Although a complainant's request to have his/her name withheld may limit the university's ability to respond fully to an individual allegation of sexual misconduct, there are other steps the university can take to limit the effects of the alleged sexual violence and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant. Examples include providing increased monitoring, supervision or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; changing and publicizing the university's policies on sexual misconduct; and conducting climate surveys regarding sexual violence. In instances affecting many persons, an alleged perpetrator can be put on notice of allegations of sexual misconduct and be counseled appropriately without revealing, even indirectly, the identity of the complainant. The university will also take action as necessary to protect the complainant while keeping his/her identity confidential. For students these actions may include providing support services to the complainant and changing living arrangements or course schedules, assignments, or tests.

Factors to Consider in Weighing a Request for Confidentiality

Factors to consider when weighing a complainant's request for confidentiality that could preclude a meaningful investigation or potential discipline of the alleged perpetrator include the following:

1. Circumstances that reasonably suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual misconduct (particularly sexual violence)(e.g., where there have been other sexual misconduct/sexual violence complaints about the same alleged perpetrator, whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of sexual misconduct/sexual violence, whether the alleged perpetrator threatened further sexual violence or other violence against the complainant or others, and whether the sexual violence was committed by multiple perpetrators)
2. Circumstances that suggest there is an increased risk of future acts of sexual misconduct/sexual violence under similar circumstances (e.g., whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group).
3. Whether the sexual violence was perpetrated with a weapon
4. The age of the person subjected to the sexual violence
5. Whether the university possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence)

If the university determined that it must disclose a complainant's identity to the alleged perpetrator, it should inform the complainant prior to making the disclosure, and should take whatever interim measure are necessary to protect the complainant and/or the university community.

If the complainant asks that the university inform the alleged perpetrator that the complainant asked the university not to investigate or seek discipline, the university should honor this request and inform he alleged perpetrator that the university made the decision to go forward.

Any university officials responsible for discussing safety and confidentiality with complainants should be trained on the effects of trauma and the appropriate methods to communicate with complainants subjected to sexual violence. Traumatic events such as sexual violence can result in delayed decision making; therefore, a complainant who initially requests confidentiality may later request that a full investigation be conducted

Confidential Employees

As described in the Policy on Sexual Misconduct, Confidential Employees are not required to report any information regarding an incident of sexual misconduct to the Title IX Coordinator. Confidential Employees should inform complainants of their right to file a Title IX complaint with the school and/or a separate complaint with campus or local law enforcement, in addition to informing students about campus resources for counseling, medical and academic support, Confidential Employees should also indicate that they are available to assist complainants in filing such complaints. They should also explain that Title IX includes protections against retaliation, and the university officials will not only take steps to prevent retaliation but also take responsive action if it occurs.

Public Awareness Events

The university is not required to investigate information regarding sexual misconduct incidents shared by survivors during public awareness events such as "Take Back the night." However, the university should make sure survivors are aware of any available resources, such as counseling, health and mental health services. The university should also provide information at these events on sexual misconduct and how to file a sexual misconduct complaint with the university, as well as options for reporting an incident of criminal sexual misconduct to campus or local law enforcement.