TIX Training for Informal Resolution Mediators

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Scope

Title IX

Sex Discrimination

- Disparate Treatment
- Program Access and Equity

Retaliation

Sexual Harassment

- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

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Title IX (TIX)
Sexual Harassment Policy

This policy establishes:

1. Prohibition of sexual harassment: sexual assault, domestic violence, dating violence, quid pro quo, hostile environment, and stalking
2. Procedures for dealing with sexual harassment
3. Provides definitions of the various forms of sexual harassment.

Quid Pro Quo

When an employee of the University conditions aid, benefit, or services of the University on participation in unwelcome sexual contact.

Hostile Environment

Unwelcome conduct (including physical, visual, audible, and electronic conduct) that effectively denies a person access to the University's education programs and activities per Title IX.

Which behaviors are TIX hostile environment behaviors?

Someone greets people with "honey" or "sweetheart" often.

Someone touches people's shoulder, knee, back, or gives kisses or hugs without consent.

Someone tells jokes of a sexual nature repeatedly.

Someone calls a woman a slut in a heated argument.

Someone uses the N-word about an African American woman.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for their safety or the safety of others, or
2. Suffer substantial emotional distress

Which behaviors are stalking behaviors?

Someone sends another person gifts and attempts to contact them repeatedly.

Someone asks a friend to message another person until they agree to go on a date

Someone rearranges their schedule to be around another person constantly.

Liking or commenting on social media once or twice

Domestic (or Dating) Violence

Felony or misdemeanor crimes of violence committed by:

- a current or former spouse, intimate partner
- a person with whom the victim shares a child
- a person who is cohabitating with or has cohabitated as a spouse or intimate partner

Dating violence: person in a romantic relationship

Sexual Assault

Sexual Assault includes:

- **Rape:** carnal knowledge (or penetration or attempted penetration, no matter how slight) without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity
- **Fondling:** touching for sexual gratification without consent
- **Sodomy:** oral or anal intercourse without consent
- **Incest:** nonforcible sexual intercourse between persons who are related

Consent Definition

COMMUNICATED

ONGOING

MUTUAL

It is the responsibility of the initiator to get consent.

If someone wants to engage in sexual activity, it is important to discuss consent and the scope of the sexual behavior. If consent is not present, sexual activity should not occur.

Consent must be voluntary.

It cannot be gained by force, ignoring or acting without regard to the objections of another, or taking advantage of the incapacitation of another. Incapacitation can include use of alcohol or drugs, in addition to being asleep.

Consent can also be revoked at any time.

Consent to one act does not constitute consent to another.

Consent needs to be gained prior to engaging in each kind of sexual act. For example, consent to kiss does not imply consent to have sex.

Consent to a prior occasion does not constitute consent on another occasion.

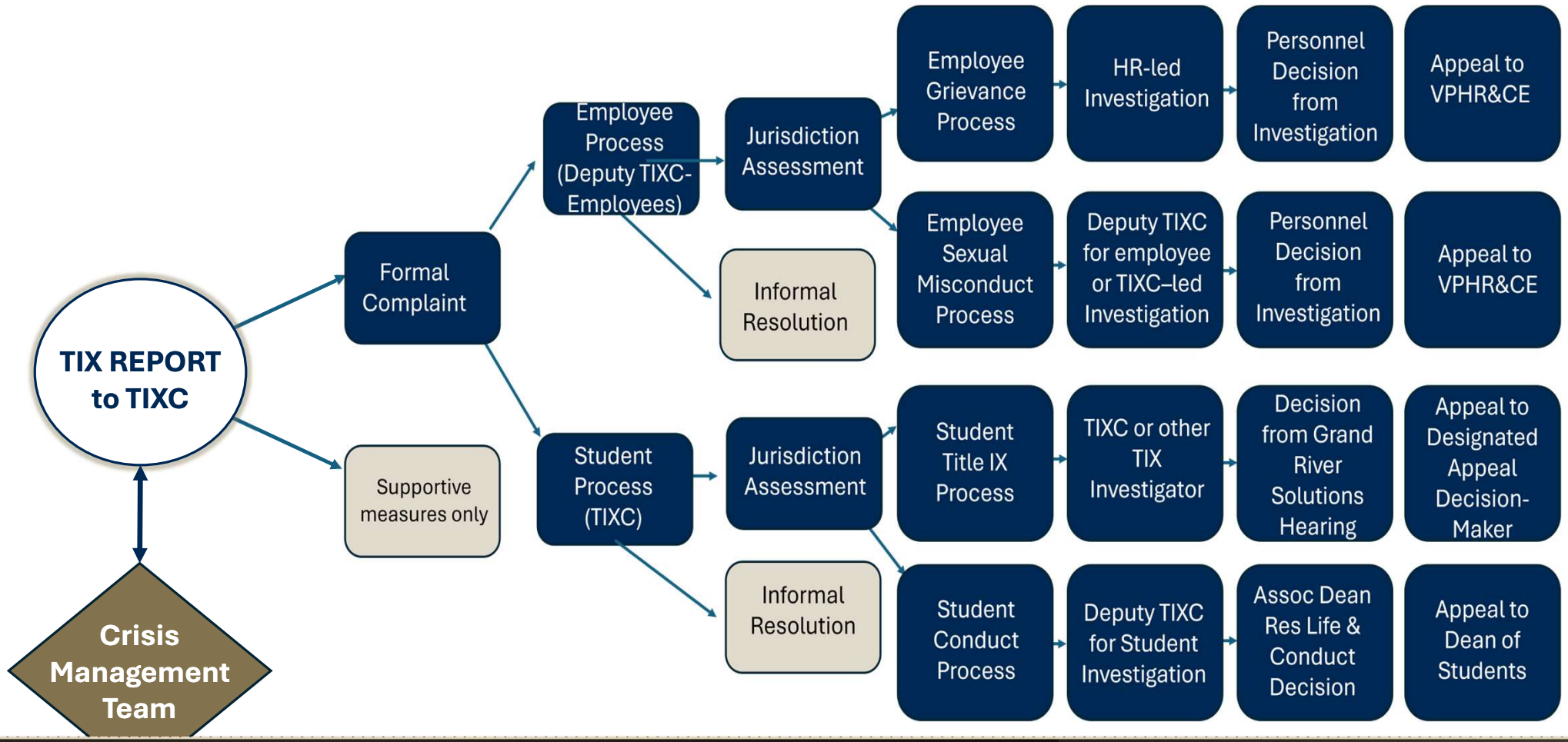
Consent needs to be gained each time there is sexual activity. Receiving consent on one day does not mean consent is given on another day.

Silence, lack of resistance, or failure to say "no" does not imply consent.

Consent needs to be clearly communicated.

Retaliation

- Given a person's TIX report or complaint or participation or refusal to participate in the TIX Grievance process, if anyone in the community:
  - Takes or attempts materially adverse action: intimidating, threatening, coercing, harassing, or discriminating
  - To interfere with any right or privilege secured by law or Policy



TITLE IX FLOW CHART

Informal Mediation

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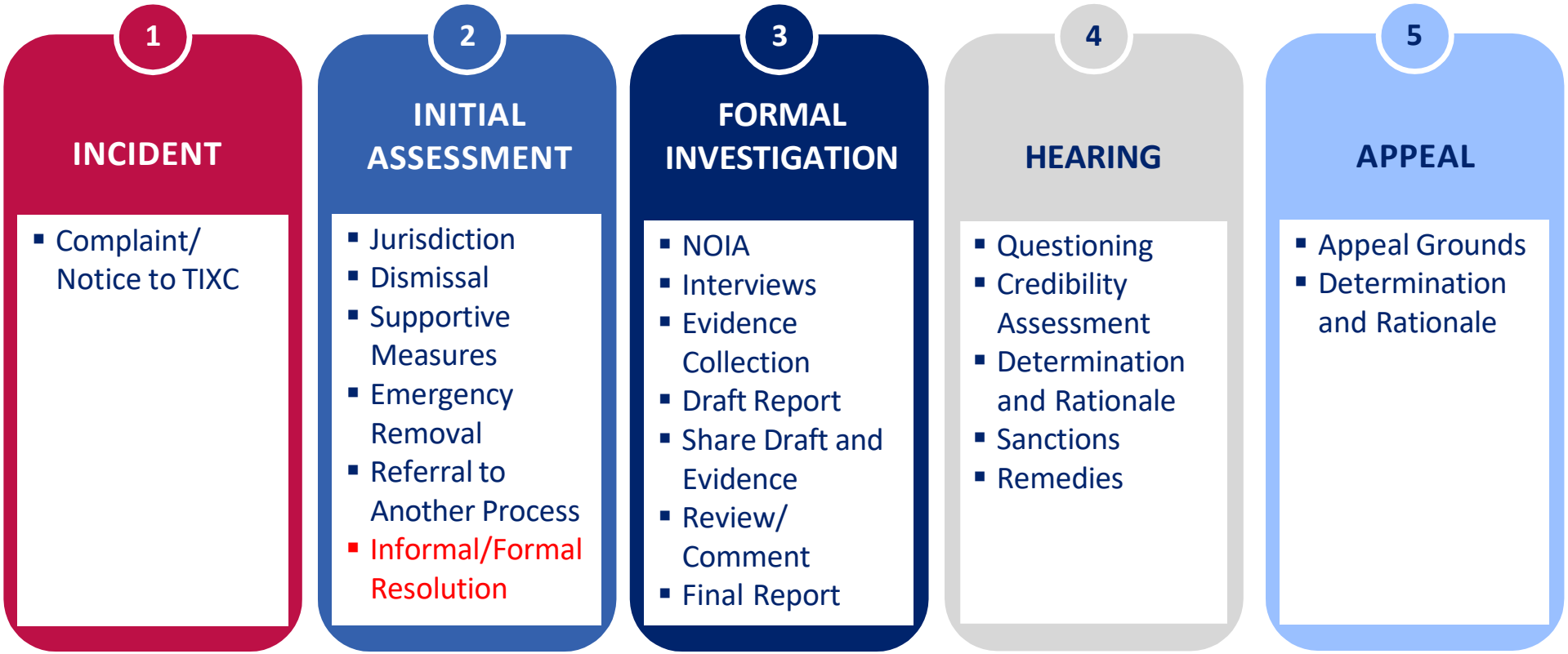
Title IX Grievance Process Overview



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If formal complaint is filed:

- Determine whether to dismiss or proceed with formal investigation
- Consider whether **emergency removal** is warranted
- Evaluate whether complaint is appropriate for potential **Informal Resolution**

If no formal complaint is filed:

- Determine whether TIXC needs to sign a formal complaint
- Consider whether **emergency removal** is warranted

Informal Resolution

- Title IX permits **voluntary** Informal Resolution (IR)
- Not available for employee-on-student harassment
- IR is not defined by regulations
- At discretion of TIXC, at any time prior to a final determination
  - Likelihood of resolution
  - Power dynamics
  - Goals and motivation of the parties to participate
  - Complexity and timing of the complaint
- IR Facilitators must receive training, be free of bias or conflicts
  - ATIXA recommends IR Facilitators not serve in any other roles

Informal Resolution, Cont.

- Procedural requirements:
  - Formal complaint
  - Parties must receive written notice of the allegations, IR procedures, records created, and potential consequences
  - Parties' voluntary, written consent
  - Must still stop, prevent, remedy
- May withdraw from IR to start or resume Formal Grievance Process at any time

Title IX Resolution Process Highlights

- TIXC process provides for a fair, prompt, and impartial process that is conducted by people who have received training annually.
- Both parties are permitted to have an advisor present throughout the process.
- Both parties will be informed of the outcome of any investigation, hearing, and/or appeal, as well as options to appeal those decisions.
- Everyone involved is protected against retaliation.
- Both parties are given equal access to resources, support measures, and due process.
- TIXC investigators are neutral fact finders, not decision makers.

Title IX Team

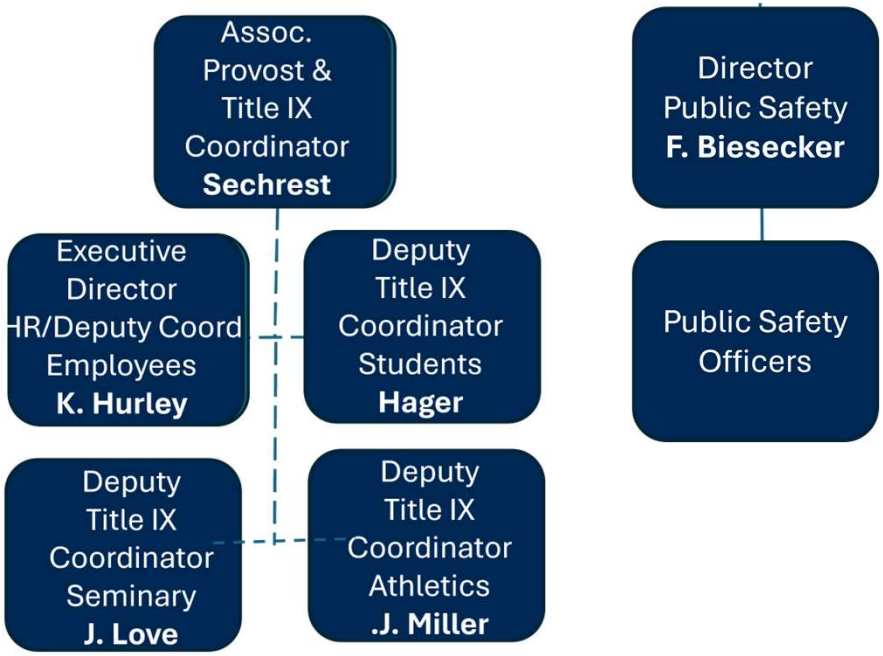
Confidential Reporters

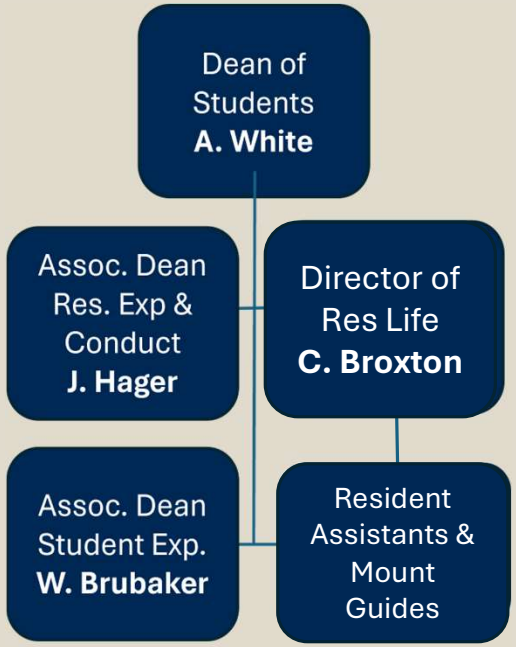
Counseling Services
301-447-5288

University Chaplain
301-447-5317

University Ombud Office
ombud@msmary.edu

Heartly House (off campus)
301-662-8800
www.heartlyhouse.org/





Mandatory Reporting Slides

Sexual Harassment Definition

Sexual Harassment is an umbrella term for discriminatory conduct on the basis of sex in two broad categories:

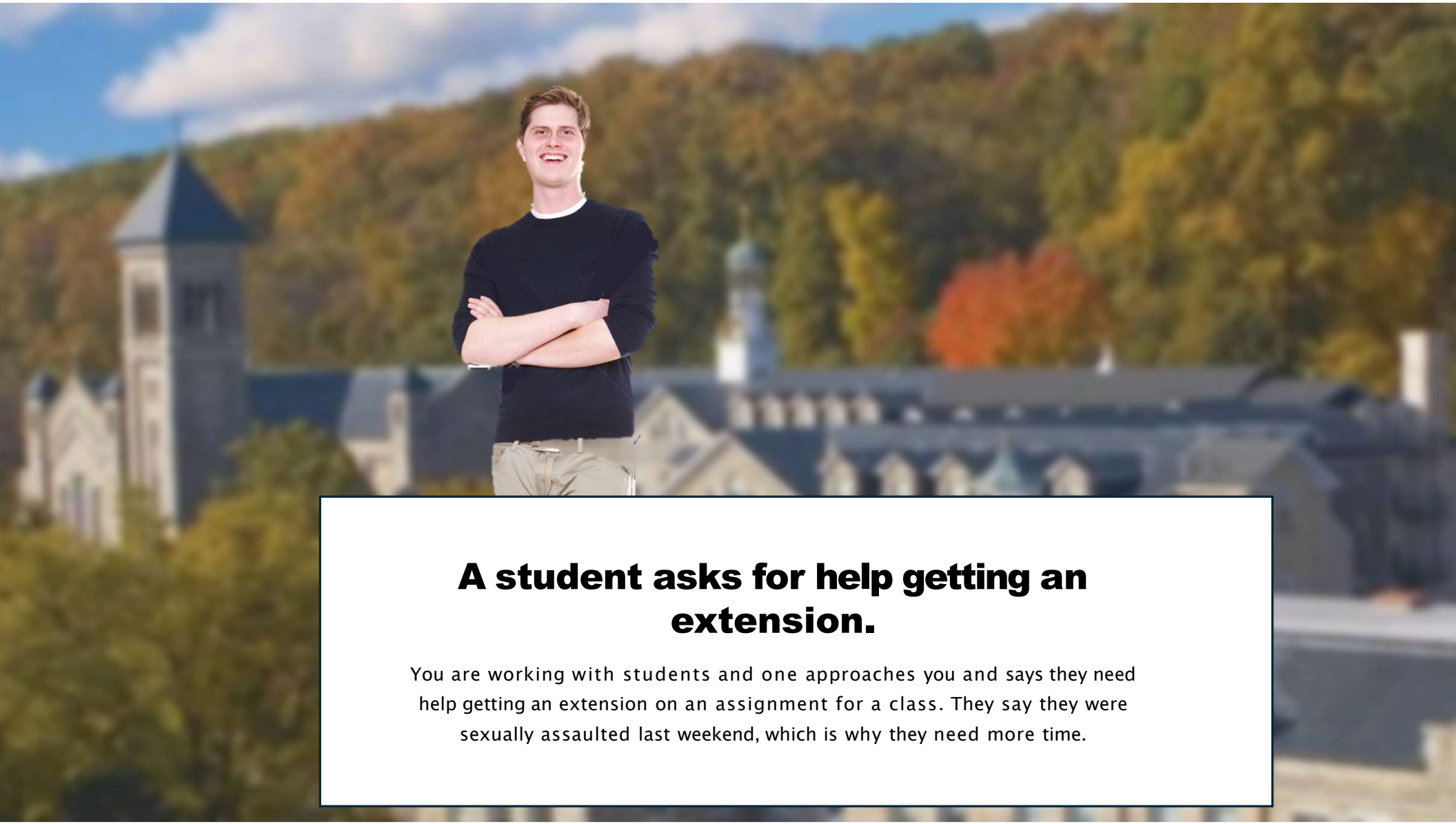
- **Harassment:** Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment
- **Sexual Violence:** Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

Mandatory Reporting

- All employees (including student employees) at The Mount are mandatory reporters, except those designated as confidential employees per policy.

- Mandatory reports are obligated by federal law and University policy to report any instance of potential sexual harassment, or related retaliation to the Title IX Coordinator (TIXC).

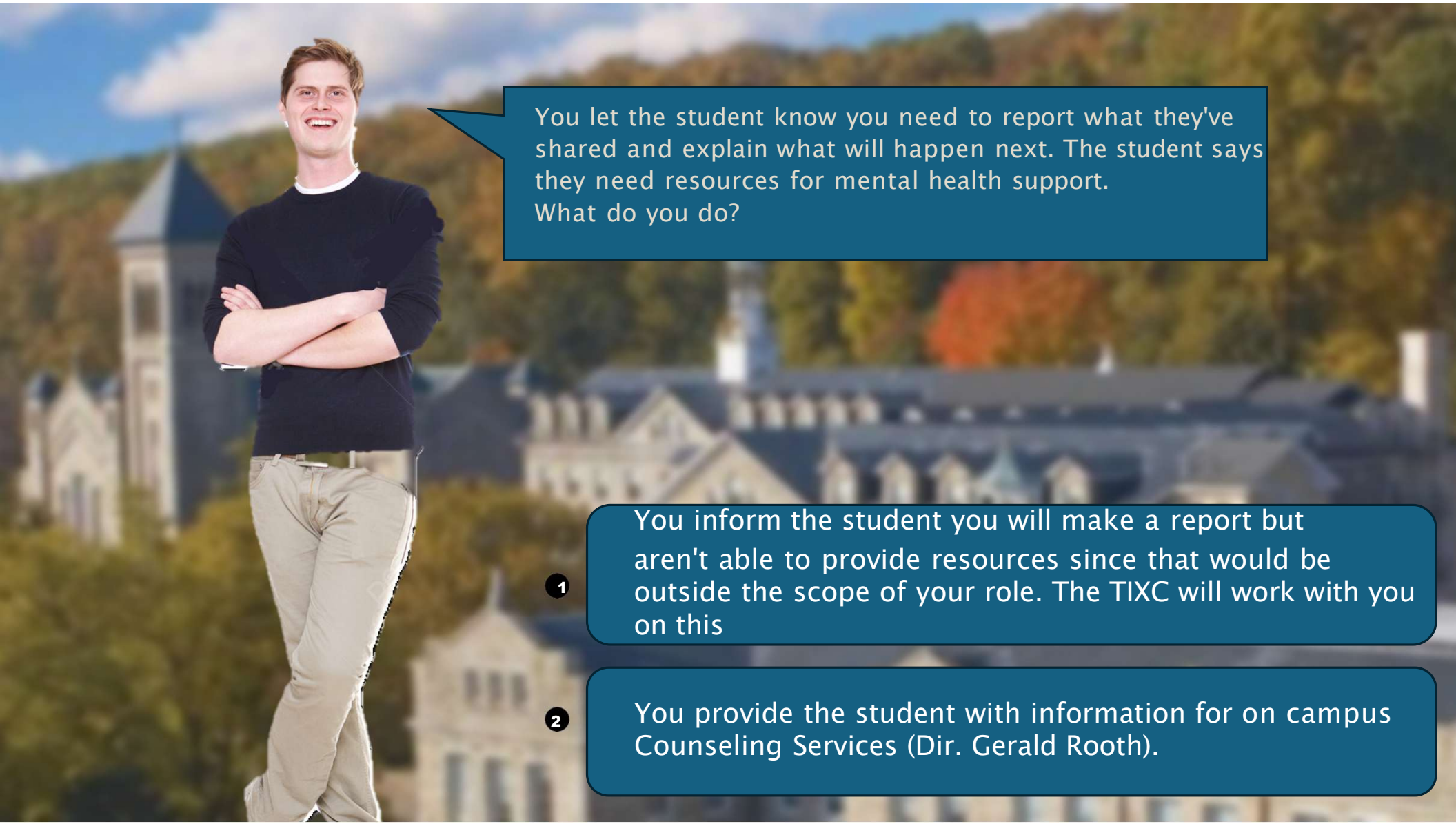
- Students NOT employed by The University are not Mandatory Reporters.

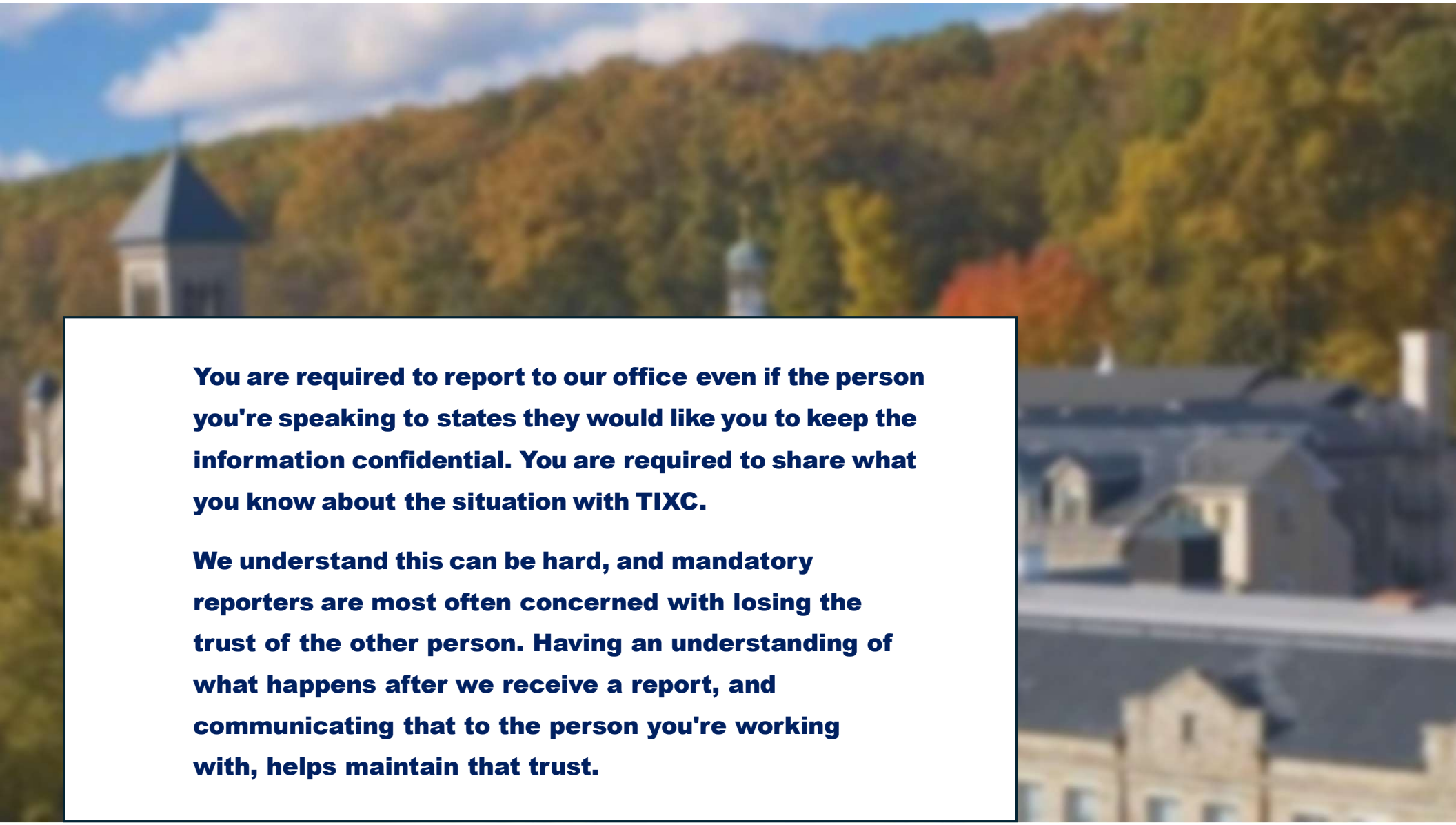


A student asks for help getting an extension.

You are working with students and one approaches you and says they need help getting an extension on an assignment for a class. They say they were sexually assaulted last weekend, which is why they need more time.

You let them know you're a mandatory reporter and they continue to talk to you about what happened. At the end, they tell you they want you to keep this confidential. Are you able to?
1
No, even though the student requested this, you have to report.
2
Yes, since the student requested this, and you’re granting the extension, it's okay to just listen and not report.


You let the student know you need to report what they've shared and explain what will happen next. The student says they need resources for mental health support.
What do you do?
1
You inform the student you will make a report but aren't able to provide resources since that would be outside the scope of your role. The TIXC will work with you on this
2
You provide the student with information for on campus Counseling Services (Dir. Gerald Rooth).



You are required to report to our office even if the person you're speaking to states they would like you to keep the information confidential. You are required to share what you know about the situation with TIXC.

We understand this can be hard, and mandatory reporters are most often concerned with losing the trust of the other person. Having an understanding of what happens after we receive a report, and communicating that to the person you're working with, helps maintain that trust.

How to Receive a Mandatory Report

- "I'm here for you."
- "I'm glad you told me."
- "There's no one right way to respond to something like this.“
- "It's understandable to be stressed right now."
- "You deserve support and care as you figure out what's next or best for you."
- "I don't need all the details in order to support you."

What to Include in a Report

Your Information

- Include your name, email address, classification (RA, Mount Guide).

The Who, When, Where

- Gather the information about the date the incident occurred, when it occurred, and where it occurred.
- Be sure to report the location of the incident as specifically as possible. This includes if the incident occurred on/off campus, within a specific classroom, department, or off-campus.

The Details

- Provide as many details as are available to you. For some incidents, you may have very little information, whereas for others, you may have a lot. There's no need to go back to the person to get more information or to ask intrusive questions. You are obligated to share whatever the person told you pertaining to their experience, even if they "told you in confidence" or requested you to keep the information to yourself.
- There's never too little information to report. Even if you don't have a name of someone who is reported to cause harm, the TIXC still needs the report.

Making a Mandatory Report

- Use the TIXC email address: TitleIX@msmary.edu
  (Do not use Advocate!)
- Use TIXC cellphone: 301-401-6455
- Use the Mount Report link