

# **Frequently Asked Questions – Senate Bill 212**

## **What is Senate Bill 212?**

[Senate Bill 212 \(SB 212\)](#) passed during the 2019 legislative session. It is a Texas State Law that requires all employees (both faculty and staff) at a public or private post-secondary institution to promptly report any knowledge of any incidents of sexual assault, sexual harassment, dating violence, or stalking "committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident".

The SB 212 penalties effective date was January 1, 2020.

## **What do I report?**

The report to the Title IX Coordinator must include "all information concerning the incident known to the reporting person that is relevant to the investigation."

## **What does the law mean when it says that reports are to be made "promptly"?**

The word "promptly" is not defined in SB 212, so standard rules of construction look to the dictionary definition of the word in question. "Prompt" is defined as "done, performed, delivered, etc., at once or without delay: a prompt reply; ready in action; quick to act as occasion demands; quick or alert: prompt to take offense".

## **I am a student and a faculty or staff member reported to the Title IX Coordinator that I am the Complainant in a Title IX related incident. Am I obligated to participate in a Title IX investigation?**

No. As a student, you always have the option to request a dismissal of the investigation or be a Reluctant Complainant in the investigation process, which means you don't have to participate in the investigation. For matters where the Respondent is a student, the Title IX Coordinator will review the dismissal request and determine if the investigation should be dismissed. If the investigation is not dismissed, the Complainant always has the right to be a Reluctant Complainant during the investigation process. Without the participation of the Complainant, the university may not have enough information to move forward in the investigation or adjudication process. Factors that may result in not dismissing the investigation include, but are not limited to:

1. The seriousness of the alleged conduct;
2. Whether the university has received other reports of a Title IX incident committed by the alleged Respondent(s);
3. Whether the alleged incident poses a risk of harm to others.

**I am not sure if the information shared with me is considered to be stalking, sexual harassment, sexual assault or dating violence. What should I do?**

Don't try to discern in which category the incident may be classified. Report any information that was shared with you with the Title IX Coordinator and they will determine whether the information qualifies.

**What if the person who shared information with me requests confidentiality?**

You should inform this person that, at this stage of the process, you are required to report all known information to the Title IX Coordinator.

**Where do faculty and staff report sexual assault, sexual harassment, dating violence, or stalking incidents committed by or against a student or employee under SB 212?**

Such reports must be filed with the institution's Title IX Coordinator or Deputy Title IX Coordinator. Reporting information can be found [here](#).

**Does SB 212 require a student to report incidents of sexual assault, sexual harassment, dating violence, or stalking committed by or against a student or employee"?**

No. The law only requires employees to report and it specifically excludes a student enrolled at the institution. However, our current guidelines about who is a Mandatory Reporter (also called Responsible Employee) include some students, such as resident assistants.

**I was a "mandatory reporter" before SB 212 became law. Have my reporting obligations changed?**

No. If you were previously required to report incidents of sexual harassment, sexual assault, dating violence, and/or stalking because of your position at TLU, your reporting obligations are the same.

**What are the penalties of non-compliance of SB 212?**

SB 212 has strong penalties for not complying with the law. Employees failing to report incidents of sexual assault can be charged with a Class B Misdemeanor and terminated. If the person intentionally tries to cover up the incident, they could also face a Class A misdemeanor charge. Furthermore, the university itself could also face a disciplinary action as a failure to comply with the bill's requirements and could incur as much as a \$2 million penalty.

There are two processes used to determine penalties: the criminal process and an administrative process. In both cases, the penalties under SB 212 apply starting January 1, 2020.

**I am a faculty member. Am I required to report something that gets disclosed in one of my classes?**

Yes. SB 212 has only two exceptions for requiring reports of sexual harassment, sexual assault, dating violence or stalking. If you are the victim of sexual harassment, sexual assault, dating violence or stalking, you are not required to report or if the disclosure is made at a “public awareness event” sponsored by the University or a university-affiliated student organization.

**Are there any protections for an employee who makes a report as required by this new law?**

Yes. If you report something in good faith or assist in the investigation of a report, you are protected under both SB 212. A report made in good faith is one where a reasonable person, given the known facts of the incident, would more likely than not conclude that prohibited conduct had occurred. From another view, a report made in bad faith is one that has little regard for the actual facts of an incident and is made with bad intent toward another person.

Retaliation for making a report is strictly prohibited, even if it ends up that you were mistaken in what you thought you saw or heard.

**SB 212 requires that the Title IX Coordinator provides a written report that contains all of the reports submitted to the university. What information will be included in this report and how often can I expect to see this report?**

SB 212 requires the university’s Title IX Coordinator to provide a quarterly report to the president that contains all of the reports submitted to the university. The reports will include information about the investigation of the reports submitted to the university and the disposition of any disciplinary processes that resulted from the investigation process, including the reports for which the university determined not to initiate a disciplinary process.

Additionally, the university will also publish an annual report that will provide information on the number of reports the university received during the academic year, the number of investigations conducted as a result of those reports, the disposition of any disciplinary processes that resulted from the investigation of those reports, and the number of reports for which the institution determined not to initiate a disciplinary process.