

University of Alaska

Policy on Creation, Retention, and Storage of Title IX Records

Policy Scope

This policy covers records created, received, and maintained in any medium pursuant to the University of Alaska’s Sexual and Gender-Based Discrimination Policy and/or the regular business of the University of Alaska’s Title IX Office¹. All such records are considered private by the Title IX Office, in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to Title IX. These records may be shared internally with those who have a legitimate educational or administrative need-to-know, and will be shared with the parties to an investigation under the Sexual and Gender-Based Discrimination Policy per the terms of this policy, applicable state and/or federal law, including FERPA², and/or Clery/VAWA §304³. The University of Alaska’s Title IX Office controls the dissemination and sharing of any records under its control.

Types of Records Covered Under this Policy

These records include, but are not limited to:

- Documentation of notice to the institution including incident reports;
- Anonymous reports;
- Any documentation supporting the preliminary inquiry;
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts);
- Documentation related to the grievance-resolution process;
- The final investigative report (including findings and the basis for those findings);
- Remedy-related documentation;
- Resource and accommodation-related documentation;
- Appeal-related documentation;
- Any other records typically maintained by the University of Alaska as the investigation file.

¹ For purposes of this policy, “Title IX Office” includes the UAA Office of Equity and Compliance, the UAF Department of Diversity and Equal Opportunity, and the UAS Title IX Office.

² FERPA - Family Educational Rights and Privacy Act <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

³ VAWA - Violence Against Women Act <https://www.federalregister.gov/documents/2014/10/20/2014-24284/violence-against-women-act>

Specific examples of records pertaining to the grievance-resolution process include, but are not limited to: anonymous reports; intake documentation; incident reports; the written grievance; the names of the reporting party (if available), the responding party, any witnesses; any relevant statements or other evidence obtained; interview notes or transcripts; timelines, flowcharts and other forms used in the investigation process; witness lists, correspondence, telephone logs, evidence logs and other documents related to the processing of an investigation; correspondence relating to the substance of the investigation; actions taken on behalf of the reporting party; actions taken to restrict the responding party; any interim measures taken for the parties; correspondence with the parties; medical, mental-health and forensic record evidence obtained during the course of the investigation; police reports; expert sources used in consideration of the evidence; documentation of outcome and rationale; correspondence and documentation of the appeals process; documentation of any sanctions/discipline resulting from the grievance-resolution process; and documentation of reported retaliatory behavior as well as all action taken to address these reports.

Drafts and Working Files

Drafts and "working files" are *not* considered records that must be maintained by the University of Alaska, and these are typically destroyed during the course of an investigation or at its conclusion. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their creator and/or the Title IX Coordinator. An example is a draft of a preliminary investigative report submitted to the Title IX Coordinator for review prior to finalization. An example of a "working file" would be the investigator notes made during one interview with topics the investigator wants to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category.

Attorney Work-Product

Communications from the Title IX Office or its designees with the University of Alaska's legal counsel may be work product protected by attorney-client confidentiality. These communications are not considered records to be maintained by the Title IX Office unless the Title IX Coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as records.

Record Storage

Records may be created and maintained in different media formats; this policy applies to all records, irrespective of format. All records created pursuant to the Sexual and Gender-Based Discrimination Policy, as defined above, must be stored in (database, digital and/or paper) format. The complete file must be transferred to the Title IX Office within fourteen (14) days of resolution of the grievance (including any appeal), if the file is not maintained within the Title IX Office already. Security protocols must be in place to preserve the integrity and privacy of any

parts of any record that is maintained in the Title IX Office during the pendency of an investigation. The Title IX Office will store all records created pursuant to the Sexual and Gender-Based Discrimination Policy, regardless of the identities of the parties. Any extra copies of the records (both digital and paper) must be destroyed. A copy of records showing compliance with Clery Act requirements by Title IX personnel will be maintained along with the case file in the Title IX Office (and in a separate aggregate annual Clery Act composite file, as well).

Record Retention

All records created and maintained pursuant to the Sexual and Gender-Based Discrimination Policy must be retained *indefinitely* by the Title IX Office (in database - Maxient, OnBase, digital, and/ or paper form) unless destruction or expungement is authorized by the Title IX Coordinator, who may act under their own discretion, or in accordance with a duly executed and binding settlement of claim, and/or by court order.

Record Access

Access to records created pursuant to the Sexual and Gender-Based Discrimination Policy or housed in the Title IX Office is strictly limited to the Title IX Coordinator and any individual the Coordinator authorizes in writing, at their discretion (or via permission levels within the database). Those who are granted broad access to the records of the Title IX Office are expected to only access records pertinent to their scope of work or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by this policy will be at the discretion of the appropriate disciplinary authority, consistent with other relevant University of Alaska policies and procedures.

Record Security

The Title IX Coordinator is expected to maintain appropriate security practices for all records, including password protection, encryption and other barriers to access records as appropriate. Record security should include protection from flood, fire, and other potential emergencies. Clothing, forensic, and other physical evidence should be stored in the University of Alaska Records Center Vault or Title IX Office designated secure storage area, and/or with the campus law enforcement entity. All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalogue of all physical evidence will be retained with the case file.