



WESTERN MICHIGAN UNIVERSITY
Institutional Equity

Title IX and Sexual Misconduct Administrator Overview for Student Rights and Responsibilities

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Presenter

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Director Title IX Compliance
(Title IX Coordinator)



Main Objectives:

You will feel adequately prepared to report sexual misconduct

You will feel adequately prepared to carry out Title IX-related grievance functions for your department



Title IX and Sexual Misconduct

U.S. Department of Education, Title IX of the Education Amendments Act, 1972:

"No person in the United States shall, on the basis of sex [or gender], be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."

Training/Grievance Requirements in § 106.45(b)(1)(iii) and § 106.45(b)(10)(i)(D) also copied in presentation reference material



Title VII

- Prohibits discrimination on the basis of race, color, religion, sex, national origin
- Employees, potential employees
- EEOC oversight

Title IX

- Prohibits discrimination on the basis of sex
- Employees, potential employees
- Students, potential students
- OCR oversight

- Title IX has robust implementing regulations with detailed procedures for how sexual misconduct must be addressed.
- Both Title IX and Title VII have very little detail on procedures for addressing sex discrimination.



Upon University Notice of Harassment or Violence

We must respond
promptly, effectively, and equitably to:

- Assess and investigate
- Stop the behavior
- Remedy the effects
- Prevent the recurrence

*Note:
Civil Rights
framework, not a
disciplinary
framework*



Roles in the Grievance Procedures

(Roles for Director of Student Rights and Responsibilities highlighted in **yellow**)



1. **Mandated Reporter**: a person designated by Policy to promptly report disclosures or observations of sexual misconduct to the Title IX Coordinator; members of the Board of Trustees, the President, members of the President's Cabinet, Deans, Supervisors, Academic Advisors, Residence Life staff with on-call responsibilities, Advisors and designated student leaders for Registered Student Organizations, and all employees in Intercollegiate Athletics, Human Resources, Merze Tate College, Student Affairs, Haenicke Institute for Global Education, Public Safety and Institutional Equity (IE).
2. **Title IX Coordinator**: oversee grievance procedures, conduct intake meetings, coordinates informal resolutions and supportive measures, communicates to all parties, coordinates training.
3. **Investigator**: Assess cases for investigation, conduct investigations, prepare reports, answer questions during a hearing
4. **Coordinated Response Team**: As needed, the team will evaluate 1) non-routine requests for protective measures, 2) when to refer a person for an individualized safety and risk analysis 3) when to proceed without complainant participation 4) when to notify law enforcement for a timely warning assessment and 5) other unique case circumstances. Representative from any of the following areas; Public Safety, Student Affairs, Academic Affairs, HR and IE. Subject matter experts may be consulted as needed.

5. **Appeal Committee:** Members may hear appeals for Title IX dismissals, emergency removals, finding (case decision), and sanction/disciplinary action
6. **Advisor:** In cases that proceed to a hearing, the advisor is responsible for asking questions on behalf of the Party. An advisor is required; if a Party does not have an advisor, the University will provide one at no charge. A party may choose to use their own lawyer as an advisor.
7. **Hearing Official/Decision Maker:** An external consultant/lawyer or University administrator responsible issuing a finding.
8. **Hearing Facilitator:** Person who facilitates the technical aspects of the hearing; admitting parties and witnesses into virtual rooms at appropriate times.
9. **Disciplinary Authority:** Makes a decision on level of discipline based on finding, investigative report and past conduct record. Director of SRR for students, Human Resources or Administration for employees.

Individuals serving in certain roles in a Title IX Resolution may not serve in an additional role on that case.



Roles in the Grievance Procedures

Mandated Reporting



WMU COMMUNITY RESPONSE GUIDE

FOR DISCRIMINATION & SEXUAL MISCONDUCT



WESTERN MICHIGAN UNIVERSITY
Institutional Equity

Alt text: "Western Michigan University logo: Gold "W" on a brown circle with a gold outline.

Western Michigan University encourages all community members to promptly report any behavior that may violate the Sexual Misconduct or Non-Discrimination policies to Institutional Equity. Prohibited conduct involving WMU community members, whether occurring on or off campus, including during study abroad, may impact education or employment. Reporting helps connect individuals to supportive measures and enables the University to address potential hostile environments. Faculty, staff, and students should report conduct they witness or learn about through verbal, written, or electronic communication.

LISTEN

Listen and receive what is shared with you. Do not investigate, provide counseling, or make judgments. Your role is to listen as a trusted support. Recognize that people respond to trauma in different ways. Clearly explain that you are required to share the information with someone who can help. Reassure the individual that their privacy will be respected and that sharing the information is intended to connect them with safety options, resources, and support toward resolution.

Mandated Reporters have the responsibility to report disclosures to the Title IX Coordinator. Failure to report is prohibited by Policy. If after understanding your reporting obligation the individual no longer wants to continue their disclosure, inform them of the available confidential resources.

If you are ever unsure of what to do about a disclosure, contact Institutional Equity for assistance.

SUPPORT

If there is concern for anyone's immediate safety, contact Public Safety at 911. Ask how you can help and encourage the individual to seek support through appropriate resources, which may include the following:

General Resources:

Confidential counseling and support through Sindecuse Health Center at (269) 387-3287 or HelpNet Employee Assistance Program at (269) 372-4500 or (800) 523-0591.

Sexual Misconduct-Specific Resources:

Confidential medical care, including forensic exams, medication, and testing for STIs and pregnancy, is available at no cost through the YWCA Sexual Assault Program at (269) 385-3587 or Bronson Battle Creek Sexual Assault Services of Calhoun County at (888) 383-2192. Both offer 24-hour crisis lines and recommend seeking care within 120 hours of an assault.

Confidential student peer support is available through the FIRE Place Resource and Support Center in the Office of Health Promotion and Education at (269) 387-2990.

Assistance with safety and supportive measures is available through Institutional Equity at (269) 387-6316.

REPORT

Share all known details of the incident (date, time, location), the names of the parties involved, and a brief description of the incident through an online report form at wmich.edu/equity or QR code below. Individuals reporting an incident will receive confirmation that the office received their report. To protect privacy, confidentiality and due process, Institutional Equity will only update involved parties about the investigation.

If criminal behavior is involved, ask if the person would like you to call the police. If so, contact WMU Public Safety at (269) 387-5555, or the police agency where the incident occurred.

There are certain provisions for amnesty regarding alcohol and drug use. Parents of WMU Students are not notified of reports made to Institutional Equity.

Incident reporting form



Alt text: QR code linking to the incident reporting form at wmich.edu/equity. "W" logo in the center.

AFTER THE REPORT

Institutional Equity will contact the harmed party via their WMU email to request a meeting. If the request is declined, the case will be assessed for whether action is needed based on the nature of the allegation; if not, the case will be closed.

If the harmed party meets with Institutional Equity, they may bring a support person and/or advisor. Staff will review available safety measures, resources, and resolution options, which may include an informal or formal resolution.

During an investigation, Institutional Equity will gather evidence and meet with involved parties separately. If a policy violation is found, sanctions or disciplinary action may be imposed through Student Rights and Responsibilities, Human Resources, or the Office of the Provost, as appropriate.

If a potential crime is involved, filing a police report and pursuing a separate criminal process will be discussed.

**Please note that the harmed party has a say in how the matter is handled and can receive supportive measures even if they do not wish to engage in a resolution process.*

Download your Guide at:

<https://wmich.edu/sexualmisconduct>

Institutional Equity has the responsibility to promptly, effectively, and equitably assess and/or investigate, stop the behavior, remedy the effects and prevent the recurrence of any reported allegation of discrimination or sexual misconduct.

Key Definitions as defined in the WMU Non-Discrimination & Sexual Misconduct Policies

Protected Characteristic: characteristic that is legally shielded from discrimination in accessing either education, employment, or facilities. Includes: race, traits historically associated with race, color, religion, national origin, sex, pregnancy and related conditions, sexual orientation, gender identity, age, protected disability, protected veteran status, genetic information, height, weight, familial status or marital status. In some cases, the legal protections extend to people who are perceived as having a Protected Characteristic. This definition is subject to change based on legislative, regulatory, or legal changes.

Consent: knowing, voluntary, and clear permission, by word or action, to engage in sexual activity.

Prohibited Behaviors as defined in the WMU Non-Discrimination & Sexual Misconduct Policies

Dating Violence: Violence, on the basis of Sex, committed by a Respondent, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

Discrimination: Any Intentional differential treatment of a person or persons that is based on an individual's actual or perceived Protected Characteristic, or a policy/procedure or practices that has a disproportionate impact on a Protected Class group or person that: (1) excludes an individual from participation in; (2) denies the individual benefits of; or (3) otherwise adversely affects a term or condition of an individual's participation in a WMU program or activity.

Discriminatory Harassment: Unwelcome conduct on the basis of actual or perceived Protected Characteristic(s), that based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from WMU program or activity.

Domestic Violence: Violence, on the basis of Sex, committed by a Respondent who is a current or former spouse or intimate partner of the Complainant; or with whom the Complainant shares a child in common; or who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner.

Failure to Comply/Process Interference: Intentional failure to comply with the reasonable directives of a Grievance Process administrator in the performance of their official duties.

Retaliation: Taking or attempting to take materially adverse action, by intimidating, threatening, coercing, harassing, or discriminating against any individual, for the purpose of interfering with any right or privilege secured by law or Policy, or because the individual has made a report or complaint, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the policy and associated Civil Rights Grievance Procedures.

Sexual Assault

- **Non-consensual sexual contact:** Intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of an individual, without consent of that individual for the purpose of sexual degradation, gratification, or humiliation.
- **Non-consensual sexual intercourse:** Penetration, no matter how slight, of the vagina or anus with any body part or object, without consent. Oral penetration by a sex organ of another person, or by a sex related object, without consent.
- **Incest:** Sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Michigan law.
- **Statutory Rape:** Sexual intercourse, with a person who is under the statutory age of consent of 16 years old.

Sexual Exploitation: Taking non-consensual or abusive sexual advantage of another (that does not constitute Sexual Harassment as defined below) for one's own advantage or benefit or for the benefit or advantage of anyone other than the one being exploited.

Sexual Harassment: Unwelcome verbal, written, graphic and/or physical conduct that is severe or pervasive or objectively offensive on the basis of Sex that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

Stalking: A course of conduct directed at another individual, on the basis of sex, in a manner that would cause a Reasonable Person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress.

Unauthorized Disclosure: Distributing or otherwise publicizing materials created or produced during the Grievance Process without authorization or consent.

Learn More:

For resources, complete definitions, and to view the policies, visit wmich.edu/equity. Online training for faculty, staff, students, and student employees is available through Vector Solutions in the Awareness and Prevention Training application on GoWMU.

CONTACT:

email: oie-info@wmich.edu

phone: 269-387-6316

website: wmich.edu/equity

campus location: 1220 Trimpe

Download your Guide at:

<https://wmich.edu/sexual-misconduct>



Prohibited Behaviors

- Dating violence
- Domestic violence
- Sexual assault
- Sexual exploitation
- Sexual harassment
- Stalking
- Retaliation
- Unauthorized disclosure of information
- Interfering with or failing to comply with a university process related to the administration of this policy

Complete definitions are in the WMU Sexual Misconduct policy at
wmich.edu/sexualmisconduct



Disclosure from a Student or Colleague

Listen - Support - Report

- Let the person know that you will respect their privacy and may need to share information with someone that can help them. Avoid using the term “reporting”, it may infer that they did something wrong.
- Consider that they may have been through a traumatic experience; be sensitive and non-judgemental. People respond differently to trauma. They may not be acting the way you think they should, such as smiling instead of crying. Believe what they are telling you.
- They may not be ready or able to talk about the details; their thoughts may be scattered. Just listen. Resist the desire to gather all of the facts and information, to investigate, to intervene or to question decisions the person made “Why would you...”



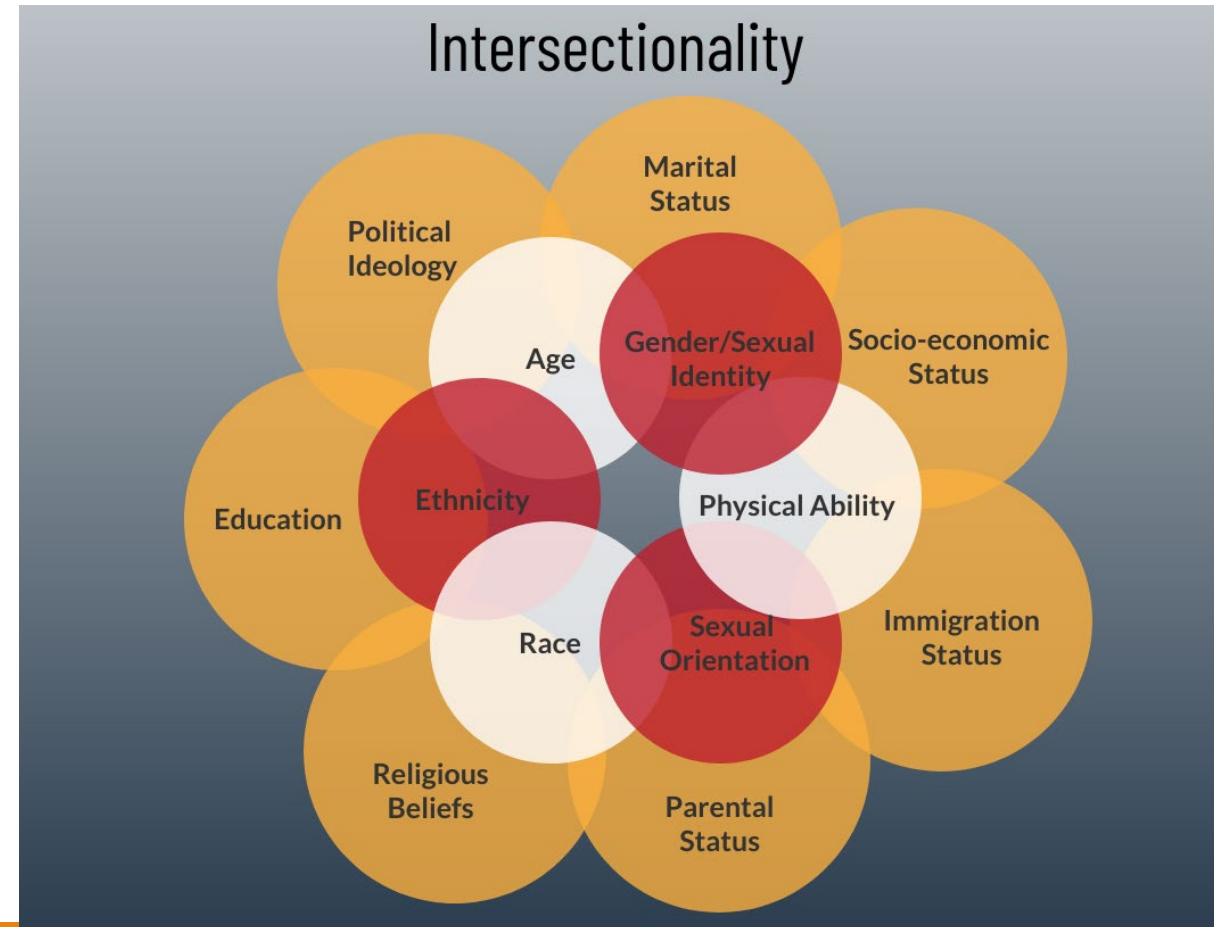
Disclosure from a Student or Colleague

Listen - Support - Report

They choose their next step; we shouldn't force anyone to talk to the police, supervisors, parents, counselors or IE.

Remember, they **chose** to tell someone and we want to respect that decision.

A persons' decision is impacted by their own identities and cultural perspectives and their choice may be different than what you want.





Disclosure from a Student or Colleague

Listen - Support - Report

Confidential Resources (not required to report)

If at any point
there is a concern
for **safety**,
call WMU Public
Safety
at
911

- HelpNet Employee Assistance Program: (800) 852-0591, wmich.edu/hr/resources/eap (counseling and crisis support for employees at no charge)
- Counseling Services, Sindecuse Health Center (269) 387-3287. No charge for students.
- YWCA Sexual Assault Program (269) 385-3587 (24-hr. crisis line, treatment and trained Sexual Assault Nurse Examiner for medical services and forensic evidence collection). Services available for all genders. No charge.
- FIRE Place Resource and Support Center in Sindecuse, (269) 387-2990. No charge for students.



Disclosure from a Student or Colleague

Listen - Support - Report

Contact Institutional Equity:

- Call (269) 387-6316 or
- Complete an online report form at wmich.edu/sexualmisconduct
- If Clery reportable, the Title IX Coordinator will send in a Clery Security Authority Form to Public Safety, include your name and copy you (to eliminate redundant reporting)

Take care of yourself, too!

What do you need to do to process what happened?



Disclosure from a Student or Colleague

Listen - Support - Report

University Sexual Misconduct Policy

Incident Report

To report an incident of; prohibited class bias, discrimination, harassment, sexual misconduct or retaliation, please use the Incident Reporting Form.

[Report an Incident Here](#) [Community Response Guide](#)

We are committed to the safety and wellness of the members of our community. If you need emergency assistance, please contact your local police or hospital.

Sexual misconduct policy and grievance procedures

Western Michigan University encourages all members of our community to participate in the process of creating a safe, welcoming and respectful environment on campus. With the Sexual Misconduct Policy, we affirm the commitment of the university and our community to the values of transparency and timely communication, and accountable and responsible behavior within an ethical, compassionate, diverse and respectful environment.

If you are in danger or in need of immediate assistance, call 911.

Read the [full policy](#) in its entirety.

[WMU Civil Rights Grievance Procedures](#) (A fully accessible version is being prepared and will be uploaded soon.) [Process for filing a complaint and connecting with resources for support.](#)

Sexual Misconduct and Safety - [Campus Resource Guide](#) (A fully accessible version is being prepared and will be uploaded soon.)

- Home
- About
- Prevention, Education And Training
- Privacy And Confidentiality
- Sexual Misconduct Data
- Report An Incident
- Resources
- Contact

University Sexual Misconduct Policy
Western Michigan University
Kalamazoo MI 49008-5405 USA
(269) 387-6316



Disclosure from a Student or Colleague

Listen - Support - Report

Include all
available
information;
the date,
time,
location,
nature of the
incident,
individuals
involved



Institutional Equity Incident Reporting Form

Reporter Information

Please provide your contact information so that we may follow up with you, as needed. If you choose not to include your name on this report, it may greatly limit how we can process your concern. Although we cannot assure complete confidentiality, we can assure you that we will keep your name closely guarded and share only on a "need to know" basis.

[Enable additional features by logging in.](#)

Your full name for follow-up:

[Learn more](#)

Your position/title:

Your phone number:

[Learn more](#)

Your email address:

[Learn more](#)

Your physical address:

[Learn more](#)

Nature of this report (Required):

Location of incident (Required):

Involved Parties

INVOLVED PARTIES SECTION TEXT

Legal Name	Gender	Role	Western Identification Number (WIN)

Incident Detail

Please provide a detailed description of the incident/concern using specific concise, objective language (who, what, where, when, why, and how). (Required)

What steps, if any, have you already taken to address this matter? (Type "none" if this is your first step.) (Required)

What do you believe would be a reasonable outcome or resolution for this matter? (Required)

Is there any additional information you would like us to have (including preferred name and pronouns)?

Supporting Documentation

Photos, video, email, and other supporting documents may be attached below. 5GB maximum total size.

Attachments require time to upload, so please be patient after submitting this form.



Why Report? Supportive Measures

Under Title IX, anyone subjected to, or accused of, sexual misconduct is entitled to supportive measures, which may include:

- referral to counseling, medical, and/or other healthcare services;
- safety planning;
- transportation and escort on campus;
- changing class schedule, including the ability to take an “incomplete,” drop a course without penalty, or transfer sections (with the agreement of the appropriate faculty);
- changing residence building, work schedule or job assignment;
- referral for academic accommodations and support services, such as tutoring;
- instituting a no contact order;
- or any other remedy that can be tailored to the individuals involved in order to achieve the goals of the Policy

The acceptance or rejection of supportive measures must be documented by the Title IX Coordinator and kept in the case file.



Hypothetical Case Scenarios

What are the main concerns?

What are your next steps?



Hypothetical Case Scenarios

1) A faculty member walks a student to their car after class, then gets in the passenger side without being asked. They insist the student drive them home. Once there, the faculty member pressures the student to come into the house. The student declined and is now uncomfortable going to class. The student works in your department and told you what happened.

2) An employee has received several threatening messages from an ex-partner. Most were about hurting the employee financially or emotionally. Human Resources received an anonymous tip that the employee is on drugs. The message sent to the employee today says the ex will come to the employee's job and "make them understand".



Roles in the Grievance Procedures

Coordinated Response Team





Intake and Assessment

- Incident reported to a Mandated Reporter or is otherwise reported to Institutional Equity (self-reports are rare).
- Title IX Coordinator responds, IE conducts an assessment using the Coordinated Response Team as needed. Report evaluated for dismissal under Title IX. The dismissal may be appealed. Emergency removal requests must be evaluated by an individualized safety and risk analysis. Respondent can appeal the removal decision to the Appeal Committee. Supportive measures* provided, as needed.
- A signed formal complaint initiates the grievance process. Complainant may request an informal or formal resolution.



Report

vs.

Formal Complaint

- Can be submitted [online](#) by anyone and may be completed anonymously
- The parties involved may be unaware that a report was submitted
- Requires careful review and assessment to determine next steps
- For transparency, all reports are de-identified and the aggregate data are shared here:

<https://wmich.edu/sexualmisconduct/data>

- Can be submitted by the Complainant or their parent/guardian
- In cases where the Complainant is unwilling or unable to proceed with a resolution, the Title IX Coordinator may file a Formal Complaint
- Requires a prescribed Title IX response in alignment with the Grievance Procedures



Coordinated Response Team Case Review Process

- Review report of prohibited behavior presented by a team member.
- Share any background information you have that is relevant to the matter and could assist with the assessment.
- Based on your professional training, experience and institutional knowledge, highlight risks or concerns for safety.
- Make recommendations for next steps.



Case Review Factors (per Policy Section 11)

The Title IX Coordinator (in consultation with the Coordinated Response Team, as needed) will consider the following in evaluating a Complainant's requests for confidentiality, that no investigation occur, or that no formal action be taken:

- 11.2.1. the nature and scope of the alleged conduct, including whether the reported Covered Behavior involves the use of a weapon;
- 11.2.2. the Complainant's wish to pursue disciplinary action;
- 11.2.3. the respective ages and roles of the Complainant and Respondent;
- 11.2.4. the risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;



Case Review Factors (per Policy Section 10)

- 11.2.5. whether there have been other reports of misconduct by the Respondent;
- 11.2.6. whether the Respondent threatened further sexual violence or other violence against the Complainant or others;
- 11.2.7. whether the report reveals a pattern of misconduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group such that there is an increased risk of future acts of sexual violence under similar circumstances;
- 11.2.8. whether the University possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence);
- 11.2.9. considerations of fundamental fairness and due process with respect to the Respondent should the course of action include disciplinary action against the Respondent; and
- 11.2.10. the University's obligation to provide a safe and non-discriminatory environment.



Roles in the Grievance Procedures

Decision Maker and
Disciplinary Authority





Respect



Accountability



Healing



Empathy

Informal Resolution

- Voluntary option designed to resolve a Complaint by engaging in mutually agreed upon alternative actions or remedies that do not involve disciplinary action against Respondent. Not permitted when a Student makes a Formal Complaint of Title IX Sexual Harassment against an Employee.
- May include safety measures, agreement to no further contact, educational programming, supported indirect communication, mediation, restorative justice and/or other actions.
- Title IX Coordinator meets with parties separately until a signed agreement is reached.



Title IX Resolution (Formal)

- Investigation: parties are interviewed, evidence report is available for review by all parties for 10 days, investigative report is created and made available for review by all parties for 10 days.
- Hearing: The University must provide an advisor to each party. The hearing official and advisors for each party are given time to ask questions of complainant, respondent and witnesses. The hearing official makes a decision on responsibility using the preponderance of the evidence standard. The Disciplinary Authority makes a decision on disciplinary action.



Administrative Resolution (Formal)

- For complaints outside of Title IX jurisdiction.
- Includes an investigation, evidence review, administrative finding, disciplinary action (if proven by the standard of evidence) and opportunity for appeal of sanction.
- The choice of the Title IX Resolution or Administrative Resolution is solely at the Title IX Coordinator's discretion.



Administrative Decision-Maker Role

- No individual materially involved in the administration of the Administrative Resolution Process, including the IE Administrator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.
- The Decision-maker reviews the Investigation report and all responses, and then makes the Final Determination by applying the preponderance standard of evidence (more likely than not; greater than 50%) and prepare a written Outcome Report.



Disciplinary Authority Role

- Factors the Disciplinary Authority may consider when determining sanctions/disciplinary actions and disciplinary action include, but are not limited to:



Disciplinary Authority Role

- The nature, severity of, and circumstances surrounding the violation(s)
- Respondent's disciplinary history
- The need for sanctions/disciplinary actions to bring an end to the Discrimination, Discriminatory Harassment and/or Sexual Misconduct
- The need for sanctions/disciplinary actions to prevent the future recurrence of Discrimination, Discriminatory Harassment and/or Sexual Misconduct
- The need to remedy the effects of Discrimination, Discriminatory Harassment and/or Sexual Misconduct on Complainant and the community
- The impact on the Parties
- Respondent's acknowledgement of responsibility or contrition
- Any other information deemed relevant by the Disciplinary Authority



Disciplinary Authority Role

- The sanctions will be implemented as soon as is feasible once a Determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.
- The sanctions described in the Procedures are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.



Important Considerations

- Maintain privacy and confidentiality: Only share information outside of case review to follow-up on agreed upon actions. Shred items not needed after case review.
- Objectivity: Evaluate each report on the facts, not on assumptions or bias for or against individuals based on their identity or group membership
- Conflicts of interest: Disclose if you have a personal connection to a party, you plan to serve in another role on this case or you have a real or perceived personal conviction that may prevent you from participating objectively or that would bring your objectivity into question



Want to learn more?

Preventing Harassment and Discrimination
(Vector online training)



WMU Civil Rights
Grievance Procedures
are available at:

wmich.edu/sexualmisconduct





WESTERN MICHIGAN UNIVERSITY
Institutional Equity

Questions?

Contact
information

Felicia Crawford

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Reference Material

Definitions, Title IX
Training/Record-
keeping
Requirements,
and Jurisdiction



<https://www.istockphoto.com/photo/caution-road-sign-3d-rendering-gm1142215599-306326558>



Title IX § 106.45(b)(1)(iii)

Require that any individual designated by a recipient as a Title IX Coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A recipient must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in § 106.30, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in paragraph (b)(6) of this section. A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in paragraph (b)(5)(vii) of this section. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment



Title IX § § 106.45(b)(10)(i)(D)

(10) *Recordkeeping.* (i) A recipient must maintain for a period of seven years records of – (D) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A recipient must make these training materials publicly available on its website, or if the recipient does not maintain a website the recipient must make these materials available upon request for inspection by members of the public.



Title IX Discrimination vs. WMU Sexual Misconduct Policy

- Jurisdiction: Occurred in the United States, in a building owned or controlled by the University with a complainant that was participating or attempting to participate in a University activity (current employee or student), where the University has control over the Respondent.
- Definition of Sexual Harassment is narrow: “so severe, and pervasive and objectively offensive that it effectively denies a person equal access to the Recipient’s education program or activity”
- Jurisdiction: Anything involving a current or former member of the WMU community, regardless of location, requires and assessment and possible response.
- Definition of Title VII/FHA Sexual Harassment is broad: “unwelcome verbal, written, graphic and/or physical conduct that is severe or pervasive or objectively offensive on the basis of Sex, that unreasonably interferes with, limits, or effectively denies an individual’s educational or employment access, benefits, or opportunities.”



Title VII/FHA Sexual Harassment

Applies to situations where an Employee is subjected to workplace Sexual Harassment or where a situation involves a residential Complainant in WMU-provided housing.

Unwelcome verbal, written, graphic and/or physical conduct that is severe or pervasive or objectively offensive on the basis of Sex, that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.



Title IX Sexual Harassment

Conduct on the basis of Sex, or that is sexual in nature, that satisfies one or more of the following:

1. Quid Pro Quo: An Employee of WMU, conditions the provision of an aid, benefit, or service of WMU, on an individual's participation in unwelcome sexual conduct.
2. Hostile Environment: Unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and objectively offensive, that it effectively denies a Complainant equal access to WMU's program or activity.

Examples of conduct that may constitute Sexual Harassment are listed in the Civil Rights Grievance Procedures.



Sexual Assault

1. Non-Consensual Sexual Intercourse:

Penetration, no matter how slight, of the vagina or anus with any body part or object, without consent. Oral penetration by a sex organ of another person, or by a sex-related object, without consent. This definition includes instances in which the Complainant is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age.

Note: The term Non-consensual Sexual Intercourse is used for clarity and is equivalent to the U.S. Department of Justice definition for Rape.



Sexual Assault (continued)

2. Non-Consensual Sexual Contact:

The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of an individual, without the consent of that individual, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. Forcing an individual to touch another person's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts, without consent, for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Note: The term Non-consensual Sexual Contact is used for clarity and is equivalent to the U.S. Department of Justice definition for Criminal Sexual Contact.



Sexual Assault (continued)

3. Incest:

Sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Michigan law.

4. Statutory Rape:

Sexual intercourse, with a person who is under the statutory age of consent of 16 years old.



Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another (that does not constitute Sexual Harassment as defined above) for one's own advantage or benefit or for the benefit or advantage of anyone other than the one being exploited.

Examples of conduct that may constitute Sexual Exploitation are listed in the Civil Rights Grievance Procedures.



Stalking

A course of conduct directed at another individual, on the basis of sex, in a manner that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property



Stalking (continued)

2. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling
3. Conduct similar to Stalking but not based on sex may be referred for review under the Student Code or employee policy/contract, as appropriate.



Dating Violence

Violence, on the basis of Sex, committed by a Respondent, who is in 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 Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:

1. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
2. Dating Violence does not include acts covered under the definition of Domestic Violence.



Domestic Violence

Violence, on the basis of Sex, committed by a Respondent who is a current or former spouse or intimate partner of the Complainant; or with whom the Complainant shares a child in common; or who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan; 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 Michigan.

To categorize an incident as Domestic Violence under the Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.



Retaliation

WMU or any member of the WMU community, taking or attempting to take materially adverse action, by intimidating, threatening, coercing, harassing, or discriminating against any individual, for the purpose of interfering with any right or privilege secured by law or Policy, or because the individual has made a report or complaint, , assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Policy and associated procedures.

The exercise of rights protected under the First Amendment does not constitute Retaliation. It is also not Retaliation for WMU to pursue disciplinary action against those who make materially false statements in bad faith in the course of a resolution process under the Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Examples of Retaliation are in the Civil Rights Grievance Procedures.



Unauthorized Disclosure

Distributing or otherwise publicizing materials created or produced during the Grievance Process except as required by law or as expressly permitted by the University; or publicly disclosing a party's personally identifiable information without authorization or consent.



Failure to Comply/Process Interference

Intentional failure to comply with: the reasonable directives of a Grievance Process administrator in the performance of their official duties, including with the terms of a no contact order; emergency removal or interim suspension terms; with sanctions/disciplinary actions; terms of an agreement achieved through informal resolution; mandated reporting duties as defined in this Policy.

Intentional interference with the resolution process, including but not limited to: destruction of or concealing of evidence; actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence; intimidating or bribing a witness or party