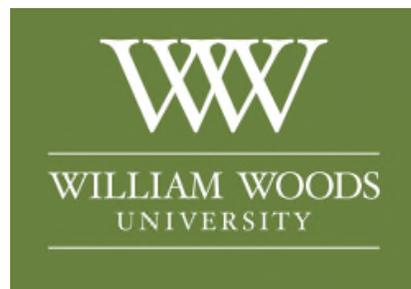


Title IX Sexual Harassment Policy and Procedures Training

SESSION I



Title IX Training Sessions

- Goal is for you to understand the relevant policies, procedures and your role.
- Two training sessions:
 - Session I: Title IX policy overview, definitions, and scope
 - Session II: Investigations, hearings, and appeals

Agenda for Session I

- Background on Title IX
 - Review of recent changes in regulations
 - Overview of Title IX Sexual Harassment Policy and Procedures
 - Scope of Policy
 - Prohibited Conduct and Important Definitions
 - Reporting Options
 - Overview of Grievance Process
- 

Title IX and Regulations



Title IX

Title IX of the Education Amendments of 1972 (Title IX) provides that:

“[n]o person in the United States shall, on the basis of sex, 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...”

Regulations

- September 2017: Dept. of Education withdrew the 2011 Dear Colleague Letter and announced the intention to undertake formal rulemaking process
- November 2018: Dept. of Education released Notice of Proposed Rulemaking (essentially a draft of the regulations)
- May 6, 2020: Dept. of Education issued final regulations regarding Title IX
- August 14, 2020: Implementation date of the new Title IX regulations

Overview of Regulations

- Must respond in a way that is not deliberately indifferent when school has actual knowledge of sexual harassment
 - “Sexual harassment” is defined by the regulations
 - Must offer supportive measures
 - Requires a signed formal complaint to start the grievance process
 - Formal complaints must be dismissed if they do not meet the jurisdictional requirements
- 

Overview of Regulations

- Regulations include specific requirements for the grievance process used to address formal complaints
- Decision maker must be separate from investigator (no single investigator model)
- Must include a live hearing with the ability for parties' advisors to cross examine other parties/witnesses

Policy, Procedures, and Resources

- William Woods University adopted its Title IX Sexual Harassment Policy and Procedures in line with the new regulations.
- Contains the statement of policy, grievance procedures, and resources for individuals who have experienced sexual harassment.

Title IX Coordinator

- William Woods University has designated the following Title IX Coordinator:

Diane Abbott

Title IX Coordinator

Director of Human Resources

William Woods University

Academic Building, Room 108

Fulton, MO 65251

diane.abbott@williamwoods.edu

573-592-4347

Scope of the Policy

Scope of the Policy

- The Sexual Harassment Grievance Process pertains to **Sexual Harassment** under Title IX, as defined by this policy, committed by or against students and/or employees, when:
 - (1) the conduct occurs on campus or other property owned or controlled by the University; or
 - (2) the conduct occurs in the context of a University **employment or education program or activity** within the United States.

Scope of the Policy

- The University's education program and activities includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which harassment occurs, and includes any building owned or controlled by a student organization that is officially recognized by the University (such as a fraternity or sorority house).

Scope of the Policy

- In the event reported misconduct does not fall within the scope of this policy, those claims may still be adjudicated under the relevant policies found in the Student Handbook and Community Code (www.williamwoods.edu/handbook) and in the Employee Handbook (www.williamwoods.edu/employeehandbook).
- Complaints against students will be handled through student conduct policies, and complaints against employees will be handled under the applicable employment policies.

Hypothetical

A freshman student athlete reports that after drinking in his residence hall, he attended a party at an off-campus apartment hosted by upper classmen who are teammates. He reports that he was given several drinks while at the party and has few memories after the first hour. He reports he woke up on the couch of the apartment and found that he was not wearing pants. He reports there was another individual on the couch, who also was not wearing pants. He reports that he returned to his residence hall and then called his RA later that day.

Prohibited Conduct and Important Definitions



Sexual Harassment

Sexual Harassment is defined as conduct **based on sex** that may be one or more of following:

- 1) Employee conditioning provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (i.e., a quid pro quo), or
 - 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
 - 3) Sexual assault, stalking, dating/domestic violence, as defined herein.
- 

Sexual Assault

- Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- Sexual Assault includes, but is not limited to, the following acts when they occur without consent of the victim:
 - Any penetration, however slight, of the genitals or anus of one person with the genitals of another person,
 - Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person,
 - Any sexual act involving penetration, however slight, of the genitals or anus of one person by a finger, instrument, or object,
 - Touching of another person's genitals or breasts under or over the clothing, or
 - Touching of one person with the genitals of another person under or over the clothing.

Domestic Violence

- Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating Violence

- Violence by a person who has been in a romantic or intimate relationship with the individual to whom the violence is directed. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.

Stalking

- Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress.
- A course of conduct is two or more incidents.
- Stalking includes “cyber-stalking,” a particular form of stalking in which a person uses electronic media.

Hypothetical

A student alleges that a professor is engaging in microaggressions based on gender-biased view of women. The student provides examples of images used in presentations in two of the class meetings. The student asks to file a complaint against the professor.

Consent

- Consent is defined as words or actions that show a **knowing** and **voluntary** agreement to willingly engage in agreed-upon sexual activity.
 - Consent cannot be gained by force, requires communication between all involved individuals, and must be obtained one step at a time, e.g., consent for oral sex does not constitute consent for intercourse.
 - Silence, non-communication, passivity, or lack of resistance should not be interpreted as an indication of consent.
 - Previous consent does not imply consent to any future form of sexual activity.
 - Consent can be rescinded at any time.
- 

Consent

- Consent is not valid if:
 - (a) it is given by a person who lacks the mental capacity to authorize the conduct and such mental incapacity is manifest or known to the actor; or
 - (b) it is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct; or
 - (c) it is induced by force, duress, or deception.
- Note: Use of alcohol and/or drugs by either party is not an excuse for violation of this policy. An intoxicated or incapacitated person cannot provide informed consent to sexual activity. Evidence of incapacitation may include, but is not limited to, unconsciousness, slurred speech, blacking out, and unusual behavior.

Hypothetical

Student reports that after drinking at a bar, she returned to her residence hall and went to a party in another student's room. She reports that she was having trouble walking by the end of the night and that the male student whose room the party was in told her she could sleep there. She reports waking up, with no clothes on, in the male student's bed, with signs that intercourse occurred.

The male student reports that the female student came to his room, took her clothes off, and climbed into bed with him. He reports he could tell she had been drinking, but she did not seem intoxicated. He reports that he had also been drinking that night.

Reporting Sexual Harassment

REPORTING OPTIONS, SUPPORTIVE MEASURES, AND
EMERGENCY REMOVALS



Reporting to the Title IX Coordinator or Designated Responsible Employee

- Individuals who believe they have been subjected to, or are aware that another individual has been subjected to, Sexual Harassment in connection with a University education program or activity, and who wish to report a potential violation of this Policy should notify:
 - Diane Abbott – Title IX Coordinator
 - Other contacts as identified in policy.

Reporting to the Title IX Coordinator or Designated Responsible Employee

- Upon receipt of any report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures and explain the process for filing a formal complaint.
 - Reporting Sexual Harassment to the Title IX Coordinator does not automatically start the grievance process – the Title IX Coordinator will explain to the Complainant how to start the grievance process by filing a Formal Complaint.
 - An individual can make a report of Sexual Harassment in order to obtain supportive measures and resources – an individual making a report of Sexual Harassment is not required to file a Formal Complaint.
- 

Confidential Reporting

Although the University encourages students and employees to bring reports of Sexual Harassment to the attention of the University for further investigation pursuant to this Policy, individuals who wish to maintain confidentiality may contact the following resources:

The Counseling and Health Services Office

(including the office manager, counselor,
and nurse practitioner)

Jenn Burton, Office Manager

William Woods University

Stone-Campbell Apartments (Apt. A)

Fulton, MO 65251

health.services@williamwoods.edu

573-592-4222

The University Chaplain Office of Faith Services

William Woods University

Stone-Campbell Apartments (Apt. A)

Fulton, MO 65251

573-592-4222

Confidential Reporting

- Unlike reports of Sexual Harassment made to other University officials (which must be reported to the Title IX Coordinator), absent the student's consent and/or situations where they perceive a serious risk or threat of injury to any person or property, reports to or conversations with Counseling and Health Services or the University Chaplain will not be reported to the Title IX Coordinator or other University officials for further investigation pursuant to this Policy.
- Students and employees can also report crimes confidentially at https://www.williamwoods.edu/forms/student_life/campus_safety_anonymous.asp and/or may speak confidentially with the following:
 - Off-campus rape crisis counselors
 - Off-campus members of the clergy and chaplains

Other Reporting Options

- There are times when the University may need to report an incident reported pursuant to this policy to local law enforcement. These circumstances may include, but are not limited to, incidents that potentially impact the health and safety of the Complainant and/or the University community.
 - Complainants also may decide to notify local, state, or federal law enforcement directly themselves or may request that the University assist with off-campus reporting.
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Amnesty

The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time an incident of sexual violence occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report incidents of sexual violence to campus officials. A bystander or Complainant reporting in good faith or a victim reporting sexual violence to University officials or law enforcement will not be subject to disciplinary procedures for violations of the University's Alcohol and Drug Policies occurring at or near the time of the sexual violence. The University may initiate an assessment or educational discussion, or pursue other non-disciplinary options regarding alcohol and/or other substance abuse, in an effort to support the future health and well-being of its students.

Responding to Reports

Upon receiving a report of Sexual Harassment, the Title IX Coordinator will promptly contact the complainant confidentially to:

- Discuss the availability of supportive measures,
- Provide a copy of this policy,
- Explain the process for filing a Formal Complaint and the grievance process,
- Discuss the options available to the complainant and provide information about resources

Supportive Measures

- Upon receipt of a report, the Title IX Coordinator will promptly and confidentially reach out to the Complainant to discuss the availability of a variety of supportive measures.
 - Supportive measures should also be offered to the Respondent as necessary and appropriate.
 - Supportive measures are designed to restore or preserve equal access to the University's education programs and activities, protect the safety of all parties and the educational environment, or deter Sexual Harassment.
 - These supportive measures should be non-disciplinary, non-punitive, individualized, and provided free of charge.
 - They must be offered regardless of whether a Formal Complaint is filed, and must be kept confidential to the extent that such confidentiality would not interfere with providing the supportive measures.
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Supportive Measures

- Examples of supportive measures include, but are not limited to:
 - Counseling
 - Extensions of deadlines or other course-related adjustments
 - Modifications of work or class schedules
 - Campus escort services
 - Mutual restrictions on contact between the parties
 - Changes in work or housing locations
 - Leaves of absence
 - Increased security and monitoring of certain areas of the campus

Emergency Removal

The University reserves the right to remove a student Respondent from its educational program or activity on an emergency basis. Such a removal may only occur if, after an individualized safety and risk analysis, the University determines an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal. In the event a decision is made to remove a Respondent, he or she will be provided with notice by the Title IX Coordinator, and given the opportunity to challenge that decision immediately following the removal by submitting a request in writing to the Title IX Coordinator.

Administrative Leave

Likewise, a non-student employee Respondent may be placed on administrative leave during the pendency of the grievance process described in this Policy.

Formal Complaints



Formal Complaints

- Filing a Formal Complaint starts the investigation and grievance process.
 - A Formal Complaint is a document alleging Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Sexual Harassment.
 - A Formal Complaint must be in written form, but it may be submitted in person, by mail, or by email. It must be signed by the Complainant but the required signature may be physical or digital.
 - The Complainant must be participating in or attempting to access a University education program or activity at the time the Formal Complaint is submitted.
- 

Formal Complaints

- A Title IX Coordinator may also initiate a Formal Complaint by signing it.
- The Title IX Coordinator may consider the specific facts and circumstances and whether there is a pattern of misconduct involving a particular Respondent.
- A Title IX Coordinator may only sign a Formal Complaint after he or she has contacted the Complainant and discussed supportive measures and the Formal Complaint process with the Complainant.
- The Title IX Coordinator must consider the Complainant's wishes for how the University responds to the report of Sexual Harassment.
- The Title IX Coordinator should balance campus safety concerns with respect for survivor autonomy.

Formal Complaints

The Title IX Coordinator may consolidate Formal Complaints where the allegations of Sexual Harassment arise out of the same facts or circumstances.

This could involve:

- Complaints by multiple Complainants against a single Respondent
 - Complaints by a single Complainant against multiple Respondents
 - Multiple allegations against the same Respondent
- 

Mandatory Dismissal of Formal Complaints

- Upon receipt of a Formal Complaint, the Title IX Coordinator will review the allegations set forth therein and determine whether the Complaint may proceed.
- Formal Complaints of Sexual Harassment brought pursuant to this policy **must** be dismissed if:
 - 1. The conduct alleged would not constitute Sexual Harassment as defined in this Policy;
 - 2. The conduct did not occur in connection with a University education program or activity;
 - 3. The conduct did not occur against a person in the United States.

Discretionary Dismissal of Formal Complaints

- Formal Complaints may be dismissed at the discretion of the Title IX Coordinator if:
 - The Complainant withdraws the Formal Complaint,
 - The Respondent is no longer enrolled in or employed by the University, or
 - In situations when gathering evidence sufficient to make a determination is not possible.

Dismissal of Formal Complaints

- Both the Complainant and Respondent will be notified, in writing, of the dismissal decision by the Title IX Coordinator or designee.
 - Complainant and Respondent can appeal the dismissal of a Formal Complaint.
 - After an initial review of the Formal Complaint, the Title IX Coordinator will continue to monitor the investigation and evaluate the Formal Complaint to determine if the above criteria for dismissal apply.
 - To the extent the behavior alleged in the Formal Complaint could constitute a violation of another University policy, it may be pursued under that policy. The Title IX Coordinator has the discretion to refer the allegations to the appropriate University official.
- 

Hypothetical

A former student files a Formal Complaint alleging that he was sexually harassed by an adjunct professor when he was a student 5 years ago.

Serving Impartially



Serving Impartially

- It is important that the Sexual Harassment Grievance Process is free from actual or perceived bias or conflicts of interest that would materially impact the outcome.
- Parties can raise concerns about potential conflict of interest or bias to the Title IX Coordinator.
- Title IX Coordinator can appoint an alternate official if appropriate.

Serving Impartially

- Important that throughout process, individuals who administer process maintain an open mind – that they are neutral and unbiased.
 - Only form an opinion at the conclusion of the process.
 - The next training session will cover investigations and hearings in more depth and will discuss impartiality in those contexts.
- 

Serving Impartially

- Be mindful of prior interactions or relationships that may give the appearance of a conflict of interest – and make the Title IX Coordinator aware if any arise.
 - Hearing decision makers are not charged with finding a *particular* outcome and should avoid pre-conceived notions and consider *only* the information provided during the process.
 - And, hearing decision makers must treat both parties equitably and with respect.
- 

Grievance Process and Procedures

General Provisions

- Respondent is presumed to be not responsible for a policy violation unless and until the Respondent is found responsible by the decision maker at the conclusion of the grievance process.
 - Parties can report if they believe the Title IX Coordinator or the individuals involved in investigating or adjudicating the complaint have conflicts of interest or bias.
 - Generally, the grievance process should be completed within 90 days, but extensions may be granted for good cause.
- 

Notice of Formal Complaint

- The written notice should include, if known, the identity of the parties, the conduct alleged to be Sexual Harassment, and the date(s) and location(s) of the incident(s).
- The notice will also include a statement that the Respondent is presumed to be not responsible for any policy violations.
- The notice must also inform the parties that they have the right to an advisor of their choice during the grievance process, that they may inspect and review evidence gathered during the investigation, and that the student Code of Conduct prohibits making false statements or submitting false information during the grievance procedure.

Notice of Investigation

- If during the course of the investigation, additional allegations are going to be investigated that were not included in the original notice, the Title IX Coordinator or designee will issue a supplemental written notice to the parties.
 - Parties will also be provided with notice of all meetings, interviews, or hearings at least three (3) business days in advance.
 - Such notice will include the date, time, location, participants, and purpose of the meeting, interview, or hearing.
- 

Advisors

- Each party will be given the same opportunity to select an advisor of their choice.
 - Advisors can be a friend, family member, faculty member, mentor, attorney, or any other person of the party's choice who is available and agrees to serve as the advisor.
 - A party must provide notice of who will serve as their advisor during any grievance process hearing at least 5 working days prior to the hearing.
 - If a party does not have an advisor for a grievance hearing, an advisor will be selected by the Title IX Coordinator and will be provided for the purpose of cross examination during the hearing.
- 

Advisors

- During the investigation process, the advisor may attend meetings between the party and the Investigator(s).
 - Advisors may confer with the party during any meeting, interview, or hearing, but generally may not speak on behalf of the party. Their purpose during the investigation meeting is to provide support to the party they are advising.
 - The only time an advisor may speak on behalf of the party is to conduct cross examination during the grievance hearing.
- 

Advisors

- Any advisor who fails to comply with these policies, the Rules of Procedure and Decorum, and/or who does not treat all others with respect may be warned by the Title IX Coordinator, Investigator, or hearing decision maker for the advisor's first infraction.
 - An advisor may be asked to leave the grievance proceeding if after being warned the advisor continues to violate the policies and Rules.
 - If an advisor is asked to leave, the proceeding will end and be continued at another time when the party has an advisor.
 - Title IX Coordinator may decide if the removed advisor can return.
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Investigation

- Investigation will be fair and thorough.
 - Title IX Coordinator will appoint Investigator(s), who may be an outside investigator.
 - *Investigator must be free from conflicts of interest or bias.*
 - Investigator will meet with both parties.
 - Both parties can identify potential witnesses and submit evidence to the investigator.
 - Burden of proof and burden of gathering sufficient evidence rests on the investigator.
- 

Investigation

- Both parties have the opportunity to review evidence at the conclusion of the investigation and submit a written response to the investigator.
- Investigator will prepare a written report summarizing the investigation and all the relevant evidence gathered.
- Report will be provided to the parties at least 10 days before the hearing.

Hearing

- After the investigation is completed, there will be a live hearing before a decision maker.
 - Live hearing may be conducted in person or virtually.
 - Hearing must be recorded.
 - Investigators will make all evidence available at the hearing. Parties may refer to the evidence and/or use it in cross examination.
 - The Investigator will provide a copy of the investigative report and all evidence that is relevant to the allegations in the formal complaint to the hearing decision maker.
- 

Hearing

- Hearing decision maker may not defer to the investigative report, and must objectively evaluate all relevant evidence and independently reach a determination regarding responsibility.
 - The Investigators, Complainant, and Respondent all have the ability to testify and call witnesses at the hearing, and to provide evidence to the decision maker.
 - The decision maker will have the opportunity to ask questions of all parties and witnesses during the hearing.
 - Each party's advisor will have the opportunity to cross examine the other party and/or any witnesses.
- 

Determination of Responsibility

- Hearing decision maker makes a determination of “responsible” or “not responsible” using the preponderance of the evidence standard.
 - Preponderance of the evidence means that it is more likely than not that the Respondent engaged in conduct that meets the definition of Sexual Harassment.
 - Hearing decision maker must draft a written determination letter outlining the rationale for the decision.
- 

Sanctions and Remedies

- If a Respondent is found responsible for a policy violation, the determination letter will also include any sanctions that will be imposed. Potential sanctions are included in the policy.
 - In addition to sanctions imposed on the Respondent, remedies can be offered to the Complainant in order to restore and preserve equal access to the University's educational program and activities.
 - Remedies may be, but are not limited to, a continuation of previously offered supportive measures. Additionally, remedies may burden the Respondent or be punitive/disciplinary in nature.
- 

Appeals

- Both Complainant and Respondent can appeal the determination of responsibility or the dismissal of a Formal Complaint.
- Appeals of such decisions are allowed on the following bases:
 - Procedural irregularity or error that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
 - The Title IX Coordinator, Investigators, or Hearing Officer had a conflict of interest or bias for or against the Complainant or Respondent which may have affected the outcome of the grievance process.

Retaliation

- The University strictly prohibits retaliation of any kind against an individual for reporting Sexual Harassment pursuant to this Policy, assisting someone with a complaint of Sexual Harassment, or participating in the grievance process following a formal complaint of Sexual Harassment.
- Reports of retaliation should be reported immediately to the Title IX Coordinator. Any reports or complaints of retaliation will be investigated and appropriate action will be taken.

Thank you for attending!

For questions, please contact:
Diane Abbott
Title IX Coordinator
Director of Human Resources
William Woods University
Academic Building, Room 108
Fulton, MO 65251
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573-592-4347

