

Walden University Title IX Grievance Reporting Policy and Procedures

The United States Department of Education (DOE) mandates that institutions comply with specific requirements under Title IX of the Educational Amendments of 1972. Title IX is a federal civil rights law that prohibits discrimination on the basis of sex. Walden University (“University”) is committed to providing a safe educational and working environment for its students, faculty, staff, and other members of the university community. The University’s Code of Conduct prohibits sexually violent acts, which can be considered criminal offenses. The University aims to protect students from conduct that may not rise to the criminal level and therefore may use different standards and definitions in this Policy than state criminal codes.

1. Definitions

Consent: is an affirmative decision to engage in mutually acceptable sexual activity given by clearly and mutually understandable words or actions that create a knowing, willing, voluntary, and active agreement by all parties regarding the conditions of sexual activity. The consent must be present and ongoing. Consent is active, not passive. Silence or an absence of resistance cannot be interpreted as consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent to sexual activity may be withdrawn at any time provided that the withdrawal of consent is communicated in clearly understandable words or actions. If consent is withdrawn, all sexual activity must immediately cease.

In the absence of mutually understandable words or actions (an agreement on what is to be done, where, with whom, when, and how), it is the responsibility of the initiator (the person who wants to engage in the specific sexual activity) to make sure that he or she has consent from the potential partner(s). Coercion, force, or threat of either invalidates consent.

Someone is not giving consent if they are: saying “no” or “stop”, crying, moving away, pushing the other(s) away, unengaged, intoxicated, drugged/high, asleep, unconscious, physically or psychologically pressured or forced, intimidated, coerced, manipulated, has a mental or physical impairment that would raise doubt about the capacity to give consent, beaten, threatened, or confined.

Furthermore, a current or previous dating or sexual relationship is not sufficient to constitute consent. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one’s responsibility to obtain consent. Silence, previous sexual relationships, and/or a current relationship with the initiator (or anyone else) may not be taken to imply consent.

Sexual Assault: Sexual assault means any actual, attempted, or threatened sexual act or sexual contact with another person without that person’s consent. Sexual assault includes but is not limited to rape and attempted rape and any other acts using force, violence, threat, intimidation, or coercion, or use of duress or deception upon the victim, or taking advantage of a victim’s inability to make reasoned decisions about sexual activity. This includes:

1. *Non-Consensual Sexual Intercourse or Rape*: Non-consensual sexual intercourse or rape is any sexual intercourse, however slight, with any object, by one person upon another, which is without consent and/or by force, or attempts to commit same. It includes vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

2. *Non-Consensual Sexual Contact*: Non-consensual sexual contact is any intentional and unwelcome sexual touching, however slight, with any object by a person upon another person that is without consent and/or by force, threat or intimidation, or attempts to commit same. It includes intentional and unwelcome contact with the genitals, breasts, thighs, buttocks, anus, or groin, touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts, any intentional bodily contact in a sexual manner, though not involving contact with/of/by genitals, breasts, thighs, buttock, anus, groin, mouth or other orifice.

Sexual Discrimination: Sexual discrimination is a form of misconduct that undermines the integrity of the academic environment. Walden University’s Code of Conduct prohibits sexual discrimination. Sexual discrimination for the purpose of this Policy is defined as including, but not limited to, treating individuals differently because of their gender or sexual orientation, in connection with the terms and conditions of employment or educational opportunities. Discrimination does not occur, however, when an individual is treated differently than another individual for legitimate reasons.

Sexual Harassment: Walden University’s Code of Conduct prohibits sexual harassment, which is a form of misconduct that undermines the integrity of the academic environment. All members of the Walden University community, especially officers, faculty members, and other individuals who exercise supervisory authority, have an obligation to promote an environment that is free of sexual harassment. Sexual harassment can include, but is not limited to, unwelcome sexual advances; requests for sexual favors; unwelcome physical contact of a sexual nature; e-mails containing inappropriate sexual content; obscene or harassing phone calls or jokes of a sexual nature; suggestive gestures, sounds, stares, or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment or participation in an educational program;
2. Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting employment or academic progress; or
3. Such conduct, by instructors, staff, or students, including between students, has the purpose or effect of unreasonably interfering with an individuals’ work or academic performance, limiting an individuals’ ability to participate in or benefit from the educational program, or creating an intimidating, hostile, or offensive environment.

Sexual Misconduct: Sexual misconduct includes nonconsensual sexual intercourse, nonconsensual sexual contact, sexual exploitation, interpersonal relationship violence, sex/gender-based stalking, sexual harassment, and sexual discrimination. Sexual misconduct often overlaps with criminal offenses such as rape, sexual assault, sexual harassment, stalking, dating violence, and domestic violence.

For purposes of the Walden University Title IX Reporting and Grievance Policy, Sexual Assault, Sexual Misconduct, Sexual Harassment, and Sexual Discrimination are considered “Sexual Misconduct.”

2. Procedural Overview

Reporting Procedures

Students, faculty, or staff members who believe that they are the victim of Sexual Misconduct (“Complainant”) must report the incident to one of the Responsible Employees listed below to initiate the complaint process. The Title IX Coordinators are responsible for receiving and processing, in a timely manner, reports from students, faculty, staff, and administrators regarding rights and responsibilities concerning Sexual Misconduct in violation of Title IX. Any questions or complaints regarding Title IX may also be directed to the Office of Civil Rights. Students, faculty, or staff members who feel they are the victim of a crime have the right to file both a criminal complaint and a Title IX complaint simultaneously.

Students should contact the Title IX Coordinator, Title IX Deputy Coordinator, or Title IX Deputy Coordinator, Academic Residencies. Faculty and staff should contact the Title IX Deputy Coordinator, Human Resources.

If a student reports a concern of Sexual Misconduct to other University departments that handle student concerns, such as Student Affairs or the Office of the Ombudsperson, the complaint will be processed as a Title IX complaint to the extent that the allegations come within the definitions in this Policy.

Walden University’s Responsible Employees

Title IX Coordinator (Lead)

Gina Dyson, JD, Senior Director, Student Affairs

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Title IX Deputy Coordinator

Julie K. Ogren, MA, Director, Student Organizations

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Title IX Deputy Coordinator, Academic Residencies

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Title IX Deputy Coordinator, Human Resources

Katie Baer, SHRM-SCP, Senior HR Manager

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Initial Title IX Review and Assessment of Reports of Sexual Misconduct

Walden University takes all reports of Sexual Misconduct seriously and, upon receiving notice of any alleged violation of this Policy, shall take immediate steps to conduct a thorough, prompt, and appropriate investigation to determine whether the alleged conduct is so severe, persistent, or pervasive as to deny or limit an individual's ability to participate in or benefit from the school's programs or activities and/or as to the terms and conditions of employment, thereby creating a hostile environment.

3. Investigative Process

The following steps will be taken by the Title IX Coordinator (or Deputy) in the event of a complaint of Sexual Misconduct:

Step 1: Intake/Reporting of Complaint

A Complainant who contacts the Title IX Coordinator or Responsible Employee with an allegation of Sexual Misconduct will be notified of their right to request confidentiality and/or remain anonymous and how that may affect Walden University's ability to conduct an investigation. Walden University strongly supports the Complainant's right to request confidentiality in cases involving Sexual Misconduct.

Complainants have the right to ask that their names not be disclosed to the accused party ("Respondent"). However, there are some situations in which the University must override a Complainant's request for confidentiality in order to meet the institution's legal obligations under Title IX or other laws. In these situations, the information will only be shared with individuals who are responsible for handling Walden University's response to incidents of sexual violence. Given the sensitive nature of reports of Sexual Misconduct, Walden University shall ensure that the information is maintained in a secure manner. If the Complainant requests that his or her name not be revealed to the Respondent or if Complainant asks Walden University not to investigate or seek action against the Respondent, Walden University will be limited in its ability to respond fully to the incident, including taking disciplinary action against the alleged perpetrator. If the Complainant still requests that his or her name not be disclosed to the Respondent, or that Walden University not investigate or seek action against the Respondent, Walden will need to determine whether or not the institution can honor such a request while providing a safe and nondiscriminatory environment for all students, faculty, and staff.

If the Complainant wishes to move forward with the process, they will be asked a series of questions to provide information. If the Complainant prefers, they may complete the information from the Sexual Misconduct Complaint Report Form and submit it to the Title IX Coordinator. The form is available from the Title IX Coordinator or by downloading from Title IX page on the WaldenU.edu website.

Step 2: Determination of Interim Measures

Upon notification of a concern of Sexual Misconduct, Walden University shall take steps to ensure equal access to its education programs and activities and protect the Complainant as necessary, including taking interim measures before the final outcome of an investigation. These measures are designed to protect the Complainant and provide the Complainant with options to avoid contact with the Respondent. These measures may include a change in academic activities, living, transportation, dining, and working situation as appropriate. The Title IX Coordinator shall work with the Complainant to determine what, if any, interim measures shall be implemented.

Step 3: Notice to Respondent

Promptly after Walden has determined that an investigation is to be undertaken, the Complainant and Respondent will be notified that a complaint has been received by the University and will be investigated under this Policy.

Step 4: Initiate Investigation Process

- Investigation: An investigation refers to the process Walden University uses to resolve Sexual Misconduct complaints. The Title IX Coordinator shall determine, given the circumstances surrounding the complaint, the proper party to conduct the investigation. The proper party may or may not be the Title IX Coordinator, and shall be the person best able to conduct an impartial and fair review of the complaint. The fact-finding investigation will determine whether or not the conduct occurred and, if the conduct occurred, what action Walden University will take to end the conduct and prevent its recurrence. The investigator shall recommend, in the case of a finding of a violation of this Policy, appropriate sanctions on the Respondent and provide remedies for the Complainant and broader student population. The investigation may but will not necessarily include interviews of the Complainant, the Respondent, and any witnesses; reviewing law enforcement investigation documents (if applicable); reviewing student and personnel files; gathering and examining other relevant documents or evidence; and any other procedures the investigator believes are necessary to the fact-finding process. Walden University shall promote a fair investigation process that provides the same opportunities to all parties.
- Advisors: If a student is the Complainant or Respondent, either party may have an advisor present during a meeting or proceeding that may occur during the investigation. The advisor may not be an attorney unless otherwise required by law. The purpose of the advisor is to provide advice to the student or employee in a quiet manner that is not disruptive to the meeting or proceeding. The advisor may not provide verbal, written, or other input during meetings or interviews in the investigation or appeal process other than to the student or employee being advised. An advisor cannot serve as a witness on the same complaint for which they serve as an advisor.

Step 5: Recommendations of Resolution to Leadership

Upon the completion of the investigation, the Title IX Coordinator shall present the findings to Walden University leadership which may include, as appropriate, the Dean of Student Affairs, College or School Dean or Vice Provost, the Chief Academic Officer, or Human Resources Director. Walden University leadership shall then determine the appropriate resolution to the complaint, considering factors including the role of the party within the university community (student, faculty, or employee). Resolutions may include disciplinary action against the Respondent or providing counseling for the Respondent. Remedies for the Complainant may include steps such as reassignment of a course section or residency, counseling services, as well as changes to the school's overall services or policies. Any remedies offered would be separate from, and in addition to, any interim measure that may have been provided prior to the conclusion of any investigation.

Step 6: Notification of Findings

Walden University shall provide written notification to the Complainant and the Respondent of the findings of the investigation within substantially the same timeframe.

Step 7: Appeals

- **Eligibility and Timeframe.** Complaints where both the Complainant and the Respondent are employees cannot be appealed. For complaints where at least one party is a student, either the Complainant or the Respondent or both may appeal a decision under this Policy. Appeals must be submitted in writing within seven (7) calendar days of notification of the decision. Student appeals will be decided by the Chief Academic Officer and faculty or staff member appeals will be decided by Ivania Bronson, Vice President Human Resources. The administrator authorized in this section to decide the appeal is referred to in this Policy as the “Appeals Official.”
- **Grounds.** There is a presumption that the decision and any sanction or discipline were made properly, and the sole grounds for appeal that will be considered are: (1) A procedural error that significantly impacted the final decision; (2) Previously unavailable, substantive, and relevant information that could materially impact the final decision; and (3) The sanction or discipline imposed is substantially disproportionate for the facts of the case or the violation that was found to have occurred. The burden of proof during the appeal is on the party appealing.
- **Notice.** Upon receipt of the appeal, the Appeals Official shall notify the other party, in writing, informing that party of their right to respond, and shall provide a copy of the appeal to the other party. The non-appealing party may submit a written response to the appeal within seven (7) calendar days from the date they are notified of the appeal.
- **Decision.** The Appeals Official will review the written decision and any responses made by the parties, and may exercise the discretion to request further information or documents from the parties and/or the person who issued the original decision and/or to speak with the parties. If the Appeals Official elects to speak with the Complainant or Respondent, a conversation will be held with each separately.
- **Final Determination.** The decision of the Appeals Official shall be Walden University’s final determination regarding the decision and the sanction. There are no further appeals. The Appeals Official will provide the Complainant and the Respondent with written notification of the outcome of the appeal which will be given at the same time and delivered in the same manner. This notification will include (1) whether or not the original decision was changed or upheld, and (2) if the original decision was changed, a description of the changes.

4. Other Information

Evidentiary Standard

In investigating a complaint under this Policy, Walden University shall use a *preponderance of the evidence* (more likely than not) standard when considering evidence presented by any party.

Retaliation

Title IX includes protections against retaliation. If a Complainant feels they have been a victim of retaliation under this Policy, they can file a complaint under the procedures for filing a Title IX

complaint. Walden University will take immediate and appropriate steps to investigate or otherwise determine if retaliation due to the reporting of Sexual Misconduct occurs.

Sources of Counseling, Advocacy, and Support

Victims of Sexual Misconduct can receive assistance immediately by calling the local police department (911, if emergency). Students may contact the Student Assistance Program (SAP) by calling 1-866-465-8942 or TDD: 1-800-697-0353. When contacting the SAP, please reference Walden's ID, SAP4EDU. Walden University employees may contact the Employee Assistance Program (EAP) by contacting Business Health Services (BHS) at 800-765-3277 or online: at www.bhsonline.com (user name: Laureate). Both the SAP and EAP are free, "Confidential Resources" at Walden University which means that all conversations will remain confidential and will not initiate any type of investigation into the incident. Sexual assault reports must be made by contacting the Walden University Title IX Coordinators who are the appropriate University Officials for receiving reports of sexual assault.

Time Frame for Process: While each situation is different and there can be no way to determine how long an investigation will take, the Title IX Coordinator shall endeavor to reach an initial decision within 60 days from the time the complaint is reported. Similarly, the Appeals Official shall endeavor to reach a decision within 60 days from the time the appeal is filed.