

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 in education programs or activities. Title IX extends to admissions and employment. Walden University (“Walden” or the “University”) is committed to providing a safe educational and working environment for its students, faculty, staff, and other members of the university community. Walden prohibits all forms of discrimination based upon sex, which are forms of misconduct that undermine the integrity of the academic environment. All members of the University community, especially officers, faculty members, and other individuals who exercise supervisory authority, have an obligation to promote an environment that is free of discrimination based on sex. It should be noted that while Walden prohibits sexually violent acts, which can be considered criminal offenses, Walden 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.

Walden prohibits discrimination based upon sex in all of its education programs and activities. This includes classes, online fora, residencies, and student-sponsored groups. Recognizing that some students may participate in educational activities outside of Walden’s specific programs (for example, field experiences), this policy does not apply where Walden does not exercise substantial control over both the Respondent (as hereinafter defined) and the context in which the discrimination occurred. However, other policies may continue to apply and students who experience discrimination in outside programs are nevertheless encouraged to alert Walden to any discrimination in connection with those programs.

1. Definitions

Complainant: The Complainant is an individual who is alleged to be the recipient of conduct that could be considered Sexual Harassment under this Policy.

Consent: 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, incapacitated (including incapacitation due to intoxication), 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. Being intoxicated does not invalidate consent, although one who is incapacitated due to intoxication cannot give Consent. Silence, previous sexual relationships, and/or a current relationship with the initiator (or anyone else) do not, standing alone, constitute Consent.

Respondent: The Respondent is the reported perpetrator of conduct that could constitute Sexual Harassment under this Policy.

Sexual Assault: Consistent with the definition of a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, 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 any attempt 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, and 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.

3. *Dating Violence:* Dating Violence is violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type

of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

4. *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.

5. *Stalking*: Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

Sexual Harassment: Sexual harassment is unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity, such as 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. In determining whether Sexual Harassment has occurred in an academic environment, Walden takes into account considerations relating to academic discourse, freedom and expression.

Regardless of its severity, Sexual Harassment includes any instance of Sexual Assault or any *quid pro quo* harassment by a school employee when 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 or is used as a basis for decisions affecting employment or academic progress.

Supportive Measures: Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without cost. They are meant to restore or preserve equal access to Walden's educational program or activity without unreasonably burdening the other party. Supportive Measures could include, for example, counseling, extensions of deadlines or other course-related adjustments, modifications of schedules, leaves of absence, escort services or other similar measures.

2. Procedural Overview

Reporting Procedures

Any person who wishes to report Sexual Harassment or discrimination against a Walden student or employee must report the incident to a Walden Title IX Coordinator to initiate the complaint process. The Title IX Coordinators are responsible for receiving and promptly responding to reports concerning Sexual Harassment in violation of Title IX. Any questions or complaints regarding Title IX may also be directed to the Title IX

Coordinator or to the Assistant Secretary for Civil Rights of the U.S. Department of Education. 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.

Any complaint involving a student must be reported to the Title IX Coordinator, Title IX Deputy Coordinator, or Title IX Deputy Coordinator, Academic Residencies. Complaints involving only faculty and staff must be reported to the Title IX Deputy Coordinator, Human Resources. Throughout this Policy, the term Title IX Coordinator includes the Title IX Deputy Coordinators.

Walden University's Title IX Coordinators

Title IX Coordinator (Lead)

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Title IX Deputy Coordinator

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Title IX Deputy Coordinator, Academic Residencies

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Title IX Deputy Coordinator, Human Resources

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3. Investigative Process

The following steps will be taken by the Title IX Coordinator in the event of a complaint of Sexual Harassment:

Step 1: Intake/Reporting of Complaint

When a report is made by someone other than the Complainant, the Title IX Coordinator will contact the alleged victim, if known, to determine if that individual desires to make a Complainant whether an investigation otherwise should be opened.

When a report is made by a Complainant, the Title IX Coordinator will confidentially discuss the availability of Supportive Measures, explain to the Complainant the process for filing a formal complaint and inform the Complainant that Supportive Measures are available without filing a formal complaint. If a report is made by a person other than the Complainant, the Title IX Coordinator (or Deputy) will contact the alleged victim to discuss these matters.

If the Title IX Coordinator determines that the allegations, on their face, do not meet the definition of Sexual Harassment under this Policy, or did not occur in the school's education program or activities, the Title IX Coordinator will not pursue the procedures under this Policy but may refer the matter for resolution under the Code of Conduct, Faculty Handbook, Employee Handbook, or any other appropriate policy.

Step 2: Determination of Supportive Measures

Upon notification of a concern of Sexual Harassment, Walden University shall take steps to ensure equal access to its education programs and activities for the person alleged to be the victim. The Title IX Coordinator shall work with the Complainant and Respondent to determine what, if any, Supportive Measures shall be implemented. Supportive Measures shall be considered and implemented, if appropriate, regardless of whether the Complainant files a formal complaint.

Step 3: Filing of Formal Complaint

A Complainant will be notified of his or her right to file a formal complaint under this Policy. A Complainant may decline to do so. Walden University supports the Complainant's right to request confidentiality in cases involving Sexual Harassment. Complainants have the right to ask that their names not be disclosed to the Respondent (if not filing a formal complaint). 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, Walden will only share the information with individuals who are responsible for handling Walden University's response to incidents of sexual violence and those necessary to carry out the Title IX proceeding or otherwise with a need to know consistent with the purposes of Title IX. Given the sensitive nature of reports of Sexual Harassment, Walden University shall ensure that the information is maintained in a secure manner. If the Complainant does not wish to file a formal complaint, 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. Walden will keep

confidential the identity of the Complainant, Respondent, and witnesses, except as required by FERPA or other law, or as necessary to carry out a Title IX proceeding.

If the Complainant wishes to move forward with the process and file a formal Title IX complaint, they will be asked a series of questions to provide further information relating to the matter. A formal complaint may be filed in person, by mail or by electronic mail. If the Complainant prefers, they may provide the information requested in the Sexual Harassment Complaint Report Form and submit it to the Title IX Coordinator. The form is available from the Title IX Coordinator or by downloading from the Walden Title IX page on the WaldenU.edu website. To file a formal complaint, the Complainant must be a current participant in Walden's educational programs or attempting to participate in an educational program or activity. If the Complainant does not want to file a formal complaint, they will be offered Supportive Measures but no investigation or informal resolution will be undertaken, unless Walden determines that it must pursue a formal complaint signed by the Title IX Coordinator in order to meet its obligations to respond promptly in a manner that is not deliberately indifferent and provide a safe and nondiscriminatory environment for all students, faculty and staff.

Step 4: Notice to Complainant and Respondent

Promptly after Walden has determined that a formal complaint has been filed and 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. The Notice will be in writing and will contain the allegations potentially constituting Sexual Harassment, including sufficient details known by the University at the time. Specifically, the Notice will include:

1. The identities of the parties involved in the incident, if known;
2. The date and location of the alleged incident, if known;
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX process;
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
5. That the parties may inspect and review evidence; and
6. That the University's Code of Conduct prohibits students from knowingly making false statements and knowingly submitting false information during the Title IX process.

In addition, the Notice to Respondent shall provide Respondent with sufficient time to prepare a response before any initial interview.

Step 5: Consideration of Informal Resolution

The Title IX Coordinator shall consider whether informal resolution would be appropriate based upon the allegations of the formal complaint and the individuals involved. Informal resolution may include mediation, restorative justice, or other informal means of resolving the complaint. Informal resolution is not appropriate where the allegations involve Sexual Harassment of a student by an employee. If the Title IX Coordinator believes that informal resolution is appropriate, the Title IX Coordinator shall offer informal resolution to both parties.

If both parties provide voluntary, informed, written consent to attempt informal resolution, the Title IX Coordinator will facilitate that process as appropriate. Either party may choose to withdraw from the informal resolution process at any time. If informal resolution cannot resolve the matter to the satisfaction of both parties, the Title IX Coordinator will begin the investigation process.

Step 6: Initiate Investigation Process.

The Title IX Coordinator shall determine, given the circumstances surrounding the complaint, who shall conduct the investigation. The investigator may or may not be the Title IX Coordinator, but shall be a person able to conduct an impartial and fair review of the complaint, will have received proper training on the definition of “Sexual Harassment,” and will in no circumstances have a conflict of interest. The fact-finding investigation includes an objective evaluation of all relevant evidence, both inculpatory and exculpatory. During the investigation and until a determination is made, there is a presumption that the Respondent is not responsible for the alleged conduct.

The role of the investigator is to gather and synthesize relevant information in a report that will be provided to the Hearing Officer. The parties may submit information to the investigator that they believe to be relevant. The investigator has the discretion to determine the relevance of any witness or other evidence and may exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative. 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 medical records and other relevant documents or evidence; and any other efforts 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. An individual’s character or reputation with respect to other sexual activity is not relevant and will not be considered as evidence or included in the investigator’s report. Similarly, an individual’s prior or subsequent sexual activity is typically not relevant and will only be considered as evidence and included in the investigator’s report under limited circumstances. For example, prior sexual history may be relevant to explain the presence of a physical injury or to help resolve other questions raised by the report. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant. Both parties will have the opportunity to review and respond to any relevant evidence

and to provide inculpatory and exculpatory material. The investigator will send written notice of any investigative interviews or meetings to a party whose attendance is invited or expected.

At the conclusion of the investigation, the investigator will prepare a draft investigative report that fairly summarizes the relevant evidence. The investigator will not make a finding or recommended finding of responsibility. The investigator's report may include credibility assessments based on the investigator's experience with the Complainant, Respondent, and witnesses, as well as the evidence. However, credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness. Copies of the draft report will be sent to the parties and their advisors, and evidence directly related to the allegations will be made available, with at least ten (10) days for the parties to inspect, review and respond to the evidence prior to the issuance of a final written investigative report. Responses to the investigative report must be provided to the Title IX Coordinator with a copy to the opposing party. If neither party responds, the investigative report is considered to be final. If one or both parties respond to the investigative report, the Title IX Coordinator will determine whether any modifications are required. After making any such modifications, the investigative report is final and the Title IX Coordinator will provide a copy of the final report to both parties and their advisors at least ten (10) days prior to a hearing. No response to the final report will be permitted. The Complainant and Respondent and their advisors may only share the draft or final investigative report for the purpose of receiving counsel or advice related to the Title IX process.

If, at the conclusion of the investigation process, the Title IX Coordinator determines that the allegations do not meet the definition of Sexual Harassment or that the conduct did not occur in Walden's educational programs or activities, the Title IX Coordinator shall dismiss the complaint and will provide both parties with written notice of the dismissal and the reason for the dismissal. If, at the conclusion of the investigation, the Title IX Coordinator determines that the allegations, if proven, would support a finding of Sexual Harassment, the Title IX Coordinator shall provide a copy of the written report to an individual designated to be the Hearing Officer, which shall begin the hearing phase of the process.

Step 7: Hearing

Walden will make arrangements for a Hearing Officer to conduct a live hearing by videoconference to determine whether a violation of this Policy occurred and, if so, the appropriate sanction or discipline. A "live" hearing may include a virtual hearing conducted completely by videoconference. The hearing will be presided over by a single Hearing Officer appointed by the Title IX Coordinator. The appointed Hearing Officer will be a College or School Vice Provost, unless the Respondent is an employee of Walden University, in which case the Hearing Officer will be a Human Resources Director, or their designee, who may be an independent third party. At the hearing, the Complainant will first provide evidence in support of the complaint. The Respondent will then provide evidence in their defense. Both parties shall have the right to call witnesses and introduce evidence in support of their case. Each party's advisor will be permitted to ask relevant questions of the other party and any witnesses. At no time shall a party be permitted to directly ask questions to another party. Before any witness answers a question, the Hearing Officer shall determine whether any question is not relevant. Questions related to a Complainant's prior sexual history are not relevant unless offered to prove

Consent or that someone other than the Respondent committed the alleged misconduct. If either party does not have an advisor present at a hearing, Walden will provide one to conduct cross-examination of the other party. The rules of evidence do not apply to hearings under this Policy, but Walden will observe and respect legal privileges against the disclosure of communications, such as the attorney-client privilege.

At the request of either party, Walden will provide for the live hearing to occur with the parties located in separate videoconferencing rooms with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions. Walden will create an audio, audiovisual, or transcript recording of the hearing.

Step 8: Rendering of a Decision

Upon the completion of the hearing, the Hearing Officer shall determine the appropriate resolution to the complaint, and, if substantiated, any disciplinary action against the Respondent, which could include, for students: discipline, suspension, or expulsion; and, for employees could include: discipline, suspension or termination of employment. The Hearing Officer will also determine any remedies for the Complainant, 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 Supportive Measure that may have been provided prior to the conclusion of the investigation. The Hearing Officer will issue a written determination on the formal complaint, which will include findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any discipline imposed on the Respondent, and whether remedies will be provided to the Complainant. The written determination will be issued simultaneously to the parties, along with information about how to file an appeal.

Step 9: Notification of Findings

Walden University shall provide simultaneous written notification to the Complainant and the Respondent of the findings of the investigation within substantially the same timeframe, along with information about how to file an appeal.

Step 10: Appeals

- **Eligibility and Timeframe.** Either party may appeal a decision under this Policy. Appeals must be submitted in writing within ten (10) 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 the 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 affected the final decision; (2) Previously unavailable, substantive, and relevant information that could

materially impact the final decision; (3) the discovery that Title IX personnel had a conflict of interest or bias; and/or (4) 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 ten (10) 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. The parties' advisors may be present during any such conversations.
- **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 the original decision was changed or upheld, and (2) if the original decision was changed, a description of the change(s) and the reason(s) for the change(s).

4. Other Information

Advisors

Complainants and Respondents are entitled to be accompanied and assisted by an advisor of their choosing at both formal and informal meetings, investigation interviews, and hearings. Except at a hearing, where advisors will conduct cross-examination on behalf of each party, advisors may not participate in the process or speak on behalf of the Complainant or Respondent. Complainants and Respondents may choose to have an attorney serve as their advisor but accommodations, including scheduling of interviews or hearings, will not be made for any advisors, including attorneys, if they unduly delay the process.

Evidentiary Standard

In investigating a formal 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.

Recordkeeping

All records, including transcripts, audio recordings, and video recordings, related to any complaint lodged under this Policy will be kept for seven (7) years.

No Retaliation

Neither Walden nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Any complaint alleging retaliation may be filed according to the grievance procedures set forth in this Policy.

Sources of Counseling, Advocacy, and Support

Victims of Sexual Assault, which is included herein as a form of Sexual Harassment can receive assistance immediately by calling the local police department (911, if emergency). In addition, students with complaints of any type of Sexual Harassment 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.

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 90 days from the time the complaint is reported. Similarly, the Appeals Official shall endeavor to reach a decision within 90 days from the time the appeal is filed.