

Know Your IX:

Policy, Procedures and Best Practices for Title IX at Walsh University

PRESENTED BY:

Kristi Campbell, Title IX Coordinator/Director of International Student Services

Presentation

Learning Objectives

- To understand the Federal Title IX Policy
- To define the prohibited conduct is covered under the policy
- To understand whom the Title IX Legislation covers
- To understand Walsh University's policies and procedures
- To understanding the Campus Reporting process
 - Confidential vs. Non Confidential
- To know the role of Responsible Employees
- To be aware of On and Off Campus Resources
- To understand the different types of Accommodations
- To be aware of sanctioning options and the role of HR and Vice Presidents in decision-making



What is Title IX?

“ No 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.”

Title IX of the Education Amendments of 1972
Implementing Regulations at:
20 U.S.C. § 1681 & 34 C.F.R. Part 106

Walsh University's Statement on Sexual Misconduct

**WALSH
UNIVERSITY**

A Catholic University of Distinction

Walsh University prohibits all forms of sexual misconduct, including, but not limited to sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation and other forms of interpersonal violence or sex discrimination. Such conduct violates Walsh University's values and can cause disruption to the living, learning and work environment of students, employees, University volunteers, and other community members

Who does Title IX cover?

Title IX protects ALL students, faculty, staff and university volunteers from sexual misconduct, including sexual harassment.

- Male or Female
- Individuals of Different Sexual Orientation/Identities
- Different Races/National Origins, including International
- Pregnant and Parenting

What rights are afforded under the Title IX legislation?

Students, Faculty, Staff and University Volunteers have the right to:

- Be free from all types of sexual misconduct including sexual assault, domestic violence, dating violence, stalking, or severe, pervasive, & objectively offensive sexual harassment
- Bring forward a complaint in good faith
- Be informed of complaint procedures and options for resolution
- Expect a complaint to be thoroughly investigated, if they so choose*
- Receive *Intermediate/Supportive Measures* to aid in resuming of educational activities while deciding next steps
- Be advised of outcome of any investigation
- Be free from retaliation

Who is the Current Title IX Coordinator and what is her role in the process?

The Title IX Coordinator

Kristi Campbell

Director of International Student Services

kcampbell1@walsh.edu

titleix@walsh.edu

330.490.7105

(Walsh University Title IX Website, 2020)



What does the Title IX Coordinator do?

The University Title IX Coordinator oversees and provides leadership for Walsh University's Title IX activities. Some of the many responsibilities include:

- Disseminate/implement Walsh University policies & procedures on Title IX
- Oversee training initiatives for the campus community on Title IX
- Serve as a resource for the community
- Oversee initial investigations of complaints
- Work closely with Deputy Coordinators

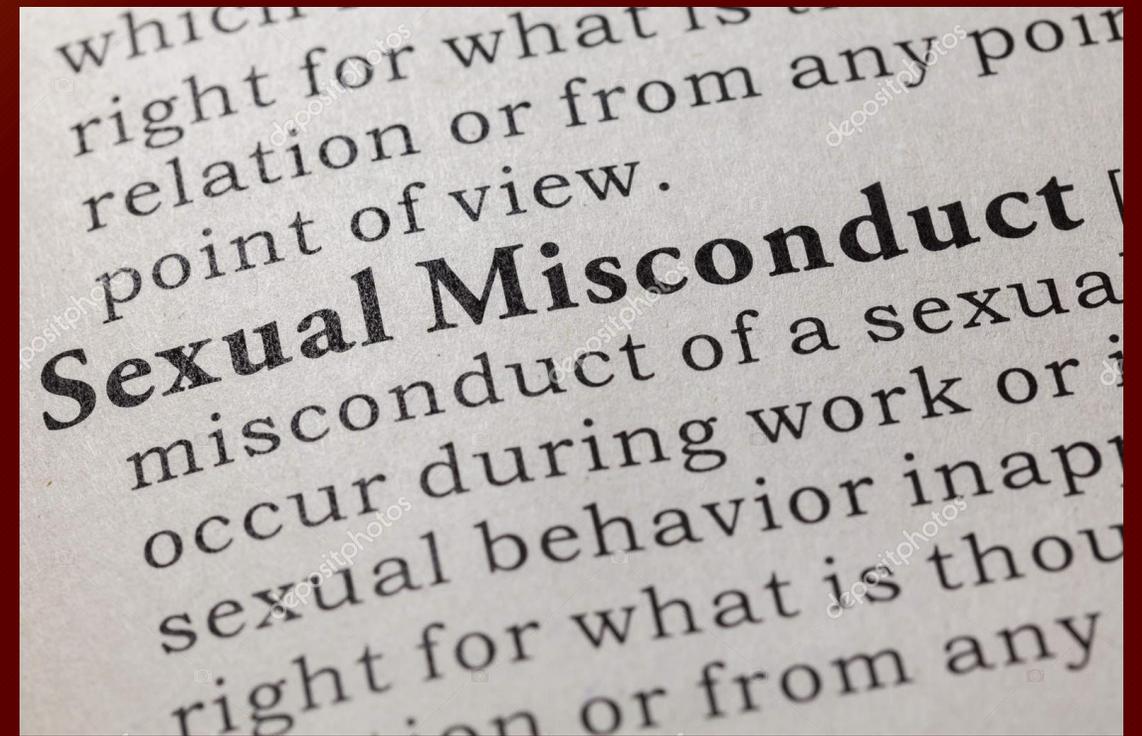
Relevant Statistics

- 1 in 5 female college students are sexually assaulted
- 1 in 16 college men have been sexually assaulted
- 80%-90% of sexual assaults are committed by someone the person knows
- 90%+ of sexual assault survivors do not report



Types of Sexual Misconduct Covered by Title IX

- Sexual Harassment
- Sexual Violence
- Domestic/Intimate Partner/Dating Violence
- Stalking



Sexual Harassment



- “**Sexual Harassment**” means conduct on the basis of sex that satisfies one or more of the following:
- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct (i.e., 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 recipient’s education program or activity; or;
- (3) “**Sexual assault**” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “**dating violence**” as defined in 34 U.S.C. 12291(a)(10), “**domestic violence**” as defined in 34 U.S.C. 12291(a)(8), or “**stalking**” as defined in 34 U.S.C. 12291(a)(30).

Sexual Violence

Sexual Violence is intentional physical sexual abuse committed against a person's will or consent. Sexual violence includes sexual assault (rape, fondling, incest, statutory rape) and sexual battery.



Domestic or Dating Violence

Domestic or Dating Violence is force or threat of force that results in injury (physical, sexual, verbal and/or psychological):

- The act is committed by a person such as a family member, spouse, or household member
- It can include a current or former spouse;
- It can include a person which the victim is cohabitating or has cohabitated;
- It can include someone a person is currently dating or had been dating.



Stalking

Stalking occurs when someone, often on more than one occasion, is engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- Fear for his or her safety or the safety of others (fear of death, assault, or bodily injury to that person)
; or
- Suffer substantial emotional distress



Consent

CONSENT



Freely Given
Reversible
Informed
Enthusiastic
Specific

- Consent is communicating clearly a YES about any and all sexual activity.
- The terms are determined by the person GIVING consent.
- It can be revoked at any time, even if previously given at another time.

Walsh University Consent Standard

- Consent is an agreement expressed through affirmative, voluntary words or actions, and mutually understandable to all parties involved, to engage in a specific sexual act at a specific time:
- Consent must be ongoing and can be withdrawn at any time by involved parties.
- Consent requires a mutual, clear and certain yes through body language, words, or actions.
- Consent cannot be assumed based on the following:
 - Silence
 - Implied confirmation of interest
 - Initiation of sexual contact
 - The absence of a clear/certain yes
 - The absence of a clear/certain “no” through body language, words, and/or actions
 - The existence of a prior or current relationship
 - Prior sexual activity

Who has a duty to report disclosed incidents of sexual misconduct?

ALL RESPONSIBLE EMPLOYEES!

A Responsible Employee is any employee who 1) has the authority to take action to address sexual misconduct, OR

2) who has been given the duty to report to appropriate officials of an institution about incidents of sexual misconduct, OR

3) who an employee that someone could reasonably believe has this authority or responsibility.



Who are considered to be *Responsible Employees?*

- All Faculty and Staff (full and part time)
 - Includes adjuncts/grad assistants
- Identified Campus Security Agents (CSAs)
- Resident Assistants and Peacemakers (RAs)
- University Volunteers



SO BASICALLY EVERYONE-WITH A FEW EXCEPTIONS!!!

(Walsh University Title IX Website, 2020)

Who are considered On-Campus Confidential Resources?

Students, Faculty, Staff and University Volunteers

- ❑ Health Services | Cechinni Health & Wellness Complex | (330) 490-7030
- ❑ University Senior Chaplain | Our Lady of Perpetual Help Chapel | (330) 490-7051 / Fr. Thomas Cebula (PLEASE NOTE: The University Senior Chaplain may only promise confidentiality to students when in the Sacrament of Reconciliation. Outside of this sacrament, he is unable to provide confidentiality and is considered a mandatory reporter of the university.)

Students Only

- ❑ Counseling Services | David Campus Center (Suite 104) | (330)490-7348
Francie Morrow, Executive Director



As a *Responsible Employee*, what are the consequences, if I don't report?

- ❑ Termination of all or part of Walsh University's federal funding. This includes grants, subsidies, and other program funds from the federal government (FINANCIAL AID).
- ❑ Students, employees, or university volunteers can bring lawsuits against Walsh University, which can result in millions of dollars in judgments or settlements.
- ❑ Depending on outcome, it can also impact personal employment status.



What about Title IX as it relates to Pregnant and Parenting Students?

“A recipient (of federal funds) shall not apply any rule concerning a student’s actual or potential parental, family or marital status which treats students differently on the basis of sex.”

Title IX of the Education Amendments of 1972
Implementing Regulations at:
20 U.S.C. § 1681 & 34 C.F.R. Part 106

What about Title IX as it relates to Pregnant and Parenting Students?

- Specifically prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions.
- Illegal to exclude pregnant students from participating in any part of an educational program, including extracurricular activities.

Title IX of the Education Amendments of 1972
Implementing Regulations at:
20 U.S.C. § 1681 & 34 C.F.R. Part 106

What about Title IX as it relates to Pregnant and Parenting Students?

- School must excuse a student's absences because of pregnancy or childbirth for as long as the student's doctor deems the absences medically necessary. When a student returns to school, she must be allowed to return to the same academic and extracurricular status as before her medical leave began.
- Any special services provided to students who have temporary medical conditions must also be provided to a pregnant student. Therefore, if a school provides special services, such as homebound instruction or tutoring, for students who miss school because of a temporary medical condition, they must do the same for a student who misses school due to pregnancy or child birth.

Title IX of the Education Amendments of 1972
Implementing Regulations at:
20 U.S.C. § 1681 & 34 C.F.R. Part 106

Responsible Employees' Questions & Answers

What information do I need to report to the Title IX Office?

- Name(s) of person(s) who experienced the sexual misconduct (typically called the *Complainant*)
- Name of the person who committed the sexual misconduct (typically called the *Responding Party*)
- Names of any witnesses
- Relevant facts regarding the alleged incident (including the date, time, and location)
- Whether the complainant requested confidentiality.
- Whether the reporting party requested no action be taken.



If someone comes to me to disclose, how do I tell them I can't keep it confidential?

Its important to have transparency! You don't want anyone to think you manipulated them into disclosing such sensitive and private information, knowing you couldn't keep it confidential. That's why telling the person at the beginning is crucial. Below are a couple of phrases you could use:

“I have an ethical responsibility to ensure that I get this information to the Title IX office on campus so you are connected to the appropriate supports, but that doesn't obligate you to file an official report”

Or

“I have a responsibility to share this information with our Title IX office, who works to remedy and prevent incidents of sexual misconduct on campus. They can provide more information regarding your options. That said, you are not required to utilize their services if you choose not to”.

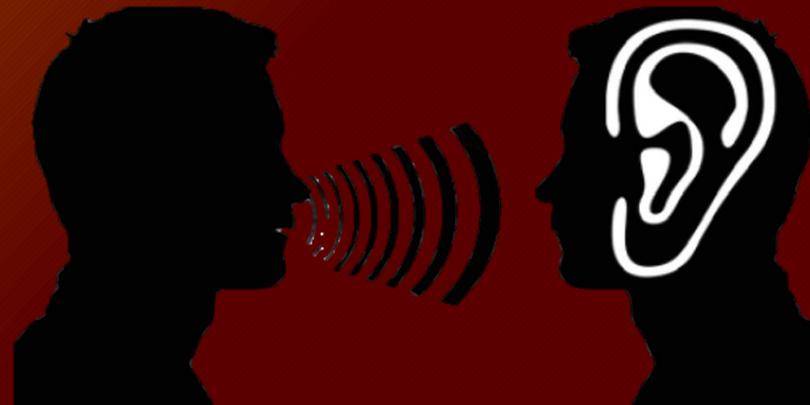
How do I navigate a conversation with someone who comes to me to disclose an incident of sexual misconduct?

AVOID JUDGEMENT

- Avoid statements that indicate that you do not believe the person.
- Avoid statements and comments about possible outcomes.
- Avoid potential re-victimization by directing the person to the Counseling Center or the specified on and off campus resources.

LISTEN

- ❑ It is critical that you listen, are present, avoid judgment, and do not blame the person for what happened.



UNDERSTAND CONFUSING EMOTIONS

- ❑ The person may feel a variety of confusing emotions like panic, helplessness, guilt, shame, numbness, or denial.
- ❑ The person's flat or emotionless display after an incident of sexual misconduct strikes many as being an inappropriate response. However, such a reaction is the result of natural painkillers released by the body in response to trauma.

What happens once a *Responsible Employee* has provided the information to the University?

- ❑ The University has a legal obligation to outreach to the survivor and provide them with the options for addressing the concerns brought forth.
- ❑ The complainant has right to take no action, except in cases of **Imminent Threat**, where the University has determined there is an overarching safety concern to the whole of campus, and they must move forward with or without the information from the survivor.
- ❑ If the complainant chooses to file a formal report, the University must conduct an Investigation that is ***IMPARTIAL, THOROUGH, PROMPT, AND EQUITABLE THAT WILL AID IN PREVENTING A REOCCURENCE, MINIMIZE EFFECT ON SURVIVOR AND COMMUNITY, AND END THE DISCRIMINATION.***

What are the reporting options for someone who disclosed an incident of sexual misconduct?

- Talk with the Office of Title IX regarding interim/supportive measures (no formal report required)
- File an Formal Complaint
 - Informal or Formal Complaint Process
- File a criminal complaint with Walsh University Police.
- File no official complaint and request no supportive measures



Process

Notice

Intake

Formal Complaint

Decisions

Investigation

Hearing

Appeal

What are Intermediate/Supportive Measures?

The Title IX Coordinator (or designee) may use their administrative discretion and take immediate action to assist the Complainant in resuming educational activities while deciding the next steps, if any, to pursue against a Responding Party or while awaiting the results of a resolution process. Intermediate/Supportive measures include but are not limited to:

- *Providing an escort*
- *Changing the Reporting Party or Responding Party's class schedule or room assignment in the residence halls*
- *Arranging academic accommodations*
- *Waiving the service fee for on-campus health center services*
- *Issuing No Contact Orders (NCOs)*
- *Limiting the responding party's access to campus, facilities and activities*
- *Implementing other appropriate educational or prevention strategies to address the environment in which the offense took place.*
- *Responding party being placed on interim suspension (in consultation with Admin.)*

What types of Academic Accommodations might be asked to arrange?

- Different Course Section
- Online Classes
- Independent Study
- Adjustment in Grading
- Absence Waiver
- Alternative Assignments
- Incompletes
- No Contact Orders in the Classroom



While it may not be aligned with what you would TYPICALLY offer a student, remember this is a SPECIAL CIRCUMSTANCE! Be flexible!

The federal legislation is CLEAR-if it can be done, it SHOULD be done!

Investigation and Hearing

- New regulations has now eliminated the investigator model.
- Every Title IX team member has a role in the process (eliminated bias/conflict of interest
 - Live hearing/cross examination
 - Right to advisor/attorney
 - “that is relevant, I will allow it”.
 - Cross examination may not include questions about a complainants sexual behavior or disposition, unless evidence of such behavior is offered to establish consent or to demonstrate that another party is responsible for committing the violation.
 - Institutions are NOT allowed to rely on statements made by a party or witness who does not submit to cross-examination

What are the potential sanctions for students found to be in violation of the policy?

Depending on the nature of the charges, the following sanctions are possible, but not limited to:

Sexual Assaults or Attempted Sexual Assaults

- Level IV: Suspension or Expulsion Status: Recommendation to the Vice President for Student Affairs/Dean of Students for suspension (minimally 1 academic semester) or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.



What are the potential sanctions for students found to be in violation of the policy, cont.?

Domestic Violence/Dating Violence

Level II: Community Probation Status:

Behavior contract; loss of access to University facilities and services; loss of guest visitation privileges; restrictions of visitation to certain residence halls or campus areas; weekends off campus.

Level III: University Probation Status:

Loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of access to University facilities and services; loss of residency/community privileges; restitution, if applicable; residence hall reassignment.

Level IV: Suspension or Expulsion Status:

Recommendation to the Vice President for Student Affairs/Dean of Students for suspension or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.

(Walsh University Title IX Website, 2020)

What are the potential sanctions for students found to be in violation of the policy, cont.?

Gender-Based Misconduct

- Level II: Community Probation Status: behavior contract, loss of guest visitation privileges, restrictions of visitation to certain residence halls or campus areas, weekends off campus.
- Level III: University Probation Status: loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of residency/community privileges; restitution if applicable, residence hall reassignment.
- Level IV: Suspension or Expulsion Status: Recommendation to the Vice President for Student Affairs for suspension or expulsion from Walsh University; loss of access to university facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.

What are the potential sanctions for students found to be in violation of the policy, cont.?

Gender-Based Misconduct

- Level II: Community Probation Status: behavior contract, loss of guest visitation privileges, restrictions of visitation to certain residence halls or campus areas, weekends off campus.
- Level III: University Probation Status: loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of residency/community privileges; restitution if applicable, residence hall reassignment.
- Level IV: Suspension or Expulsion Status: Recommendation to the Vice President for Student Affairs for suspension or expulsion from Walsh University; loss of access to university facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.

What are the potential sanctions for students found to be in violation of the policy, cont.?



Sexual Harassment or Stalking

- Level III: University Probation Status: loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of residency/community privileges; restitution if applicable, residence hall reassignment.
- Level IV: Suspension or Expulsion Status: Recommendation to the Vice President for Student Affairs for suspension or expulsion from Walsh University; loss of access to university facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.

What are the potential sanctions for students found to be in violation of the policy, cont.?

Retaliation

- Interim Suspension/removal from campus - including athletic and extracurricular involvement pending the outcome of the student conduct case. Charges of retaliation are as separate matter from the Title IX issues and will be addressed promptly through the student conduct system



What are the potential sanctions for Faculty or Staff found to be in violation of the policy?

Walsh University Employee Handbook: Professional and Support Staff (A.17):
“Disciplinary Action: It is the intent of the University to assist employees in the improvement of their performance prior to disciplinary action being taken. However, employee disciplinary action may be required to assure performance standards, and university rules and regulations are met. The University will always attempt to discipline in a corrective manner, which is consistent with the ideals and mission of the University. Various forms of discipline, depending upon the seriousness of the problem, may be used including: verbal warning, written warning, probation, suspension and discharge.”

Walsh University Employee Handbook: Faculty

If the faculty member is found in violation of any form of sexual harassment, faculty will face “appropriate and necessary discipline up to and including termination.” Also refer to moral turpitude discussion regarding tenured faculty in the Faculty Handbook.

Importance of Accountability

While often there is not enough evidence for a prosecutor to file criminal charges, we don't shy away from investigating and creating solutions for the students-Why?

□To promote a safe campus for all students, faculty, staff, and university volunteers and be in compliance with federal law.



Any Questions?

PRESENTATION REFERENCES

Department of Education (2015). Title IX Resource Guide. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>

Rape, Abuse, & Incest National Network-RAINN (2019). Sexual Violence pages. Retrieved from www.Rainn.org

The Domestic Violence & Mental Health Collaboration Project (2016) .Trauma-Informed Practices retrieved from <https://endgv.org/wp-content/uploads/2016/11/Trauma-Informed-Practices-Info-and-Resources-04-16.pdf>

U.S. Department of Education - Office for Civil Rights (2019). Retrieved from <http://www2.ed.gov/about/offices/list/ocr/index.html>

University Title IX website (2019). Title IX page. Retrieved from <https://www.walsh.edu/title-ix>