

Western New England University Sexual Harassment/Title IX Policy

I. INTRODUCTION

The University provides equal access and participation in all University activities without regard to sex. Sexual harassment is a form of discrimination on the basis of sex and prohibited under Title IX of the Higher Education Amendments of 1972. If this conduct occurs off campus, it may fall under the purview of Title IX and Title VII and the University reserves the right to act on incidents occurring off campus. Title IX applies to persons in the United States with respect to educational programs or activities that receive federal funding. The University must respond when sexual harassment occurs in the University's educational programs, against a person while in the United States.

In addition to the above-mentioned regulations, the University also complies with the Violence Against Women Reauthorization Act of 2013 (VAWA) The Clery Act, and The Campus SaVE Act.

This University policy may apply to any individual who participates in the University community as a student, faculty, staff, visitor, minor, or any other persons having dealings with the institution. This policy may apply to allegations of sexual harassment that occur on-campus, off-campus, or online.

The Assistant Vice President/Director of Human Resources serves as the EEO Officer and ADA 504 Coordinator and oversees the University's compliance efforts with discrimination and equal opportunity.

The General Counsel serves as the Title IX Coordinator and oversees the University's compliance efforts with sexual harassment.

Because the University takes allegations of sexual harassment very seriously, the University will respond promptly to complaints of sexual harassment and will take appropriate action where it is determined that such inappropriate conduct has occurred. Furthermore, the University will act promptly to eliminate the conduct and impose such corrective action and sanctions as necessary. Any act of discrimination, bias, or harassment, that does not fall under Title IX and involve students will be adjudicated through the Student Code of Conduct. Any acts of discrimination, bias, or harassment that do not fall under Title IX and involve employees will be adjudicated through their designated handbook in consultation with Human Resources.

Internal inquiries or reports about violations of this policy may be made to:

Title IX Coordinator

Cheryl Smith

General Counsel and Title IX Coordinator

Deliso Hall, Room 102

(413) 782-1542

csmith@wne.edu

ADA/504 Coordinator, Equal Employment Opportunity Officer

Joanne Ollson

Assistant Vice President and Director of Human Resources

Rivers Hall, Room 104

(413) 782-

Complaints can be filed Monday through Friday, from 8:30am to 3:00 pm.

Massachusetts Commission Against Discrimination (MCAD)
436 Dwight Street, Room 222
Springfield, MA 01103

II. ACCOMMODATION OF DISABILITIES

The University is committed to full compliance with the American with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified persons with disabilities.

The Assistant Vice President and Director Human Resources has been designated as the ADA/504 Coordinator for the University, responsible for coordinating efforts to comply with all disability laws.

Employees requesting reasonable accommodation should complete the ADA Accommodation Request Form found on the Human Resources web page at: http://www1.wne.edu/human-resources/doc/BenefitsInfoForms/Disability-LOA/ADA_Accommodations.pdf
Students requesting accommodation should contact the Office of Student Accessibility Services located in Herman Hall, Room 105.

III. PROHIBITED CONDUCT

B. Reporting Officers

The University has also designated the following individuals as “Reporting Officers”:

- x President

Sexual abuse of minors is strictly prohibited by anyone who is affiliated with the University. This includes, but is not limited to, University employees, students, volunteers, or visitors. This policy prohibits the sexual abuse of minors for both on-campus activities and University-sponsored off-campus activities.

A University employee or volunteer who has actual knowledge or reasonable suspicion of alleged sexual abuse of a minor must promptly contact the Title IX Coordinator or one of the Deputy Title IX Coordinators. Any employee who fails to contact the Title IX Coordinator or Deputy Title IX Coordinators may face discipline up to and including termination.

Any report of sexual abuse of minors will be investigated subject to this policy. In addition, the University will comply with all state mandated reporting law relating to minors. University employees and volunteers are required to directly report actual knowledge of sexual abuse of minors to the Massachusetts Department of Children and Families. For more information regarding the Massachusetts Department of Children and Families reporting requirements for child abuse, visit <https://www.mass.gov/how-to/report-child-abuse-or-neglect>.

F. Reporting Sexual Abuse of Students by University Faculty/Staff/Volunteer

Any actual knowledge or reasonable suspicion of sexual abuse of a student by a member of the University faculty, staff, or volunteer must be reported to the Title IX Coordinator or Deputy Title IX Coordinators. The University investigates every report of suspected sexual abuse of a

Respondent⁷ an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Intake Interview: The initial meeting between the Title IX Coordinator and the Complainant after the University receives a report of alleged sexual harassment.

Formal Complaint⁸: A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent with the expectation that the University will evaluate the allegation.

Document Filed by a Complainant⁹: A document or electronic submission (such as by e-mail or through an online portal provide for this purpose by the school) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

Supportive Measures¹⁰ individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, while designed to ensure equal educational access, protect safety, or deter sexual harassment or discrimination.

Actual Knowledge¹¹: Notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has the authority to institute sanctions on behalf of the recipient.

Advisor a friend, faculty member, family member or legal counsel that assists the Complainant or Respondent throughout the Sexual Harassment/Title IX Grievance Process. Parties are required to have an Advisor. The University will appoint an Advisor for a party who does not voluntarily choose one.

Investigator: a trained individual in the University community who interviews all parties and witnesses, compiles statements, verifies statements, gathers documentation, reviews evidence, conducts research, and drafts an investigative report to submit to the Title IX Coordinator.

Administrative Educational Conduct Review: the process for determining responsibility for allegations of sexual harassment when such allegations cannot be informally resolved.

⁷ <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>

⁸ <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>

⁹ <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>

¹⁰ <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>

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Procedural Facilitator: a non-voting member of the Administrative Educational Conduct Review Process, who ensures compliance with the University's Sexual Harassment/Title IX Grievance process and relevant laws.

Administrative Educational Conduct Review Officers: the two voting members of the Conduct Review process who determine responsibility. Review Officers pose questions to the parties and witnesses.

B. General Requirements

- x The University will objectively evaluate all relevant information and evidence and will avoid credibility determinations based on a person's status as a Complainant, Respondent, or witness.
- x The University will conduct the investigation with the presumption that the Respondent s

employees, the Title IX Coordinator will forward the Formal Complaint

an Advisor of the University's choice, who may be, but is not required to be, an attorney on behalf of that party.

E. Supportive Measures

Upon the filing of a Formal Complaint, the University reserves the right to implement equitable supportive measures for the health and safety of the Complainant and the Respondent, and the University community, so long as the measures are not punitive, disciplinary, or overly burdensome on one party. Supportive measures will be equitably implemented on a case by case basis.

The University reserves its right to temporarily remove a Respondent from campus prior to the conclusion of the Sexual Harassment/Title IX Grievance Process if the University reasonably believes that the Respondent presents a threat to the University community.

F. Range of Sanctions for Students

1. **Dismissal from the University** Dismissal is permanent removal from University programs, facilities, and property without the privilege of re-admission or access. This sanction will be recorded in the student's file and on the student's transcript. Notations on the transcript will be for a minimum length of time, to be designated by the Review Officers at the time the sanctions are imposed. Once disciplinary action against a student has been initiated, including the appeal process, a hold will be placed on any requests for transcripts.
2. **Suspension from the University** Suspension from the University is a sanction for a stated period of time or until specific conditions have been met. During the period of suspension, the student is not permitted access to University property, facilities, or programs. Suspension is noted in the student's file and on the student's transcript during the term of suspension. If suspension occurs during a semester in progress, University practice mandates that all courses become administrative withdrawals.
3. **Removal from University Housing:** This sanction entails forfeiture of student housing privileges for a stated period of time, including visitation restrictions to

any violation by the student may be grounds for removal from University housing or suspension or dismissal from the University.

5. **Removal from University Sponsored Travel or Travel Booked through the University:** This sanction involves the forfeiture of traveling privileges for a stated period of time or for a specific trip sponsored by or booked through the University. All students must be in good standing with the University to be eligible to participate in these initiatives. Examples of University sponsored travel include, but are not limited to: international study abroad programs, alternative spring break trips, and extended trips by athletic teams of the University. Any deposit paid by a student for University sponsored travel will be nonrefundable should the student be removed from the trip due to academic, disciplinary, or other reasons prior to departure.
6. **Campus Restrictions and/or Modifications:** Resignments to housing or restrictions from varied residential areas may be imposed as part of sanction.
7. **Fines or Restitution** This sanction entails reimbursement to the University or a third party for damage done to a person or property and/or accountability for specific acts of misconduct.
8. **Censure:** Censure may be assigned for a stated period of time. It is a written statement given to the student for misconduct warranting a stronger reprimand than a simple written warning. Further misconduct of a related or similar nature may warrant probationary status.
9. **Warning:** This is an oral or written statement to the student that they have violated the Student Code of Conduct. A warning may be taken into account in judging the seriousness or determining sanctions for future violations.
10. **Educational Sanctions:** Educational sanctions are intended to promote student learning as a result of misconduct and may include counseling referrals, a formal apology, and assignments to educational programs, a research or self-reflection paper or any other type of similar action. A failure to fulfill educational sanctions in a satisfactory manner may be cause for further accountability.

* The University reserves the right to put the status

The University cannot offer informal resolution in cases involving allegations that an employee sexually harassed a student.

VII. INVESTIGATION

entitled to:

1. A Pre-Review informational meeting with the Procedural Facilitator, during which:
 - a. any written, audio and/or video evidence about the alleged misconduct will be reviewed and explained;
 - b. a written outline of the Administrative Educational Conduct Process is provided and discussed;
 - c. a written statement identifying the section of the Sexual Harassment/Title IX policy that was allegedly violated and the range of sanction(s) that may apply.

2. The Complainant(s) and Respondent(s) will receive written notice a minimum of two

date, time and location of the

evidence regarding a party or witnesses' prior sexual behavior unless offered to prove that someone other than the Complainant committed the alleged misconduct or if the questions and evidence are relevant to the Complainant's prior sexual behavior with the Respondent to prove consent. **Rules of evidence used in**

10. Upon completion of the witness testimony, the Administrative Educational Conductor may request the witness to be recalled for further questioning.

11. If no further questioning is needed, the Administrative Educational Conductor may request the witness to provide a statement verbally and/or in writing.

12. 12.

Right of the Complainant Once the Respondent has submitted an appeal that the Vice President for Student Affairs/Dean of Students, or their designee, believes has grounds for consideration,

Students, or their designee, will deliver a written decision on the appeal to all parties within a reasonable time frame.

The decision of the Vice President for Student Affairs/Dean of Students, or their designee, will be final and binding.

XII: APPEALS FOR EMPLOYEES

A. Notice of Appeal

Respondents and Complainants may appeal by filing written notice with the Assistant Vice President and Director of Human Resources within 10 business days from the day a sanction is or is not imposed. Appeals are limited to 1,500 words and must be submitted electronically. Respondents and Complainants seeking an appeal must specify the grounds for the request. Respondents and Complainants who fail to file an appropriate written request for an appeal 10 business days waive their rights to appeal.

B. Grounds for Appeal

Appeals will be considered only in one or more of the following circumstances:

1. When a Respondent or Complainant deems the sanction inconsistent with the gravity of the offense, except in the case of termination of employment as provided in the Western New England University Faculty handbook where review is automatic;
2. When new evidence that was not available at the time of the Administrative Educational Conduct Review becomes available within the above referenced 10 business day period; or
3. When Title IX personnel had a conflict of interest or bias, that materially affected the outcome of the matter; or
4. When there has been a substantial and material procedural error during the Administrative Educational Conduct Review Process.

C. Appeals Panel

A three-member appeals panel will be designated by the Title IX Coordinator in consultation with the President of the University. Appeal panel members may not include individuals who had previously been involved in the grievance process. The appeal panel will have the authority to:

- x Affirm;

- x Reverse;
- x Modify the sanctions; or
- x Remand the matter for further investigation or consideration by the Committee (only available where there is new evidence, conflict of interest or bias, or where there is a substantial and material procedural error).

The original decision and sanction will stand if the appeal is not timely or is not based on the grounds cited above. The appeals panel will issue a written review of their findings to the Assistant Vice President and Director of Human Resources. Then, the Assistant Vice President and Director of Human Resources will deliver a written decision on the appeal to all parties within three (3) business days from the review of the appeals panel. Decisions of the appeals panel are final.

D. Appeals for Tenured Faculty Only

Should any tenured faculty member at the University desire to pursue an appeal of any actions imposed on him/her through these procedures, the affected faculty member will avail himself/herself of procedures delineated in the appropriate faculty handbook.

E. Appeals if Respondent is the President of the University

In the event that the Respondent is the President, the Chairman of the Board of Trustees will receive the report of the Committee and determine, with the Board of Trustees, any sanctions to be imposed in accordance with the Bylaws of Western New England University. The decision of the Board will be final.

XIII. RETALIATION

The University prohibits any act of retaliation against anyone who participated in a Sexual Harassment/Title IX proceeding. Any complaint of retaliation will be investigated thoroughly. Any allegation of retaliation will be adjudicated through the relevant disciplinary process.