

William Paterson University
Student Sexual Misconduct and Non-Discrimination Process (Non-Title IX)

SUBJECT:	Non-Discrimination Anti-Harassment	and	TITLE:	Student Sexual Misconduct and Non-Discrimination Process (Non-Title IX)
CATEGORY: Check One	Board of Trustees <input type="checkbox"/>		University <input checked="" type="checkbox"/>	Functional <input type="checkbox"/>
				School/Unit <input type="checkbox"/>
Responsible Executives:	Vice President of Student Development		Responsible Office:	Institutional Equity and Diversity Office
CODING:	00-01-	ADOPTED:		AMENDED:
LAST REVIEWED: 09/14/2023				

Tables of Contents

I. Purposepg. 1

II. Accountability.....pg. 2

III. Applicability.....pg. 2

IV. Definitions.....pg. 2

V. Background.....pg. 2

VI. Policy.....pg. 2

VII. Student Sexual Misconduct and non-Discrimination Process.....pg. 2

A. Initial Assessment and Preliminary Review.....pg. 2

B. Violations of University Policy Unrelated to Prohibited Conduct.....pg. 3

C. Consolidating Complaints.....pg. 3

D. Formal Investigation Process.....pg. 3

E. Determination of Responsibility.....pg. 5

F. Appeal of Determination and Sanctions.....pg. 6

VIII. Appendices

- Appendix A: Alternative Resolution.....pg. 8
- Appendix B: Considerations for Sexual Misconduct Violations and Sanctioning.....pg. 10
- Appendix C: Range of Sanctions for Student Respondents.....pg. 11

I. PURPOSE

William Paterson University (The University) has adopted procedures in accordance with the Student Sexual Misconduct and Non-Discrimination Policy for allegations of: **Sexual Misconduct and Gender-Based Discrimination**, respectively containing, among other things: provisions on reporting; how to file a complaint internally or externally; supportive measures, the formal complaint and grievance processes, and investigating and adjudicating complaints.

William Paterson University prohibits retaliation against student, faculty, or staff member who in good faith alleges that they were the victim of any form of sexual harassment, sexual misconduct, discrimination, or harassment or provides information in the course of an investigation; or is accused of violating Prohibited Conduct. No employee or student who in good faith files a report, provides information for an investigation, or testifies in any proceeding under this Policy shall be subjected to

adverse employment or educational consequences based upon such involvement or be the subject of retaliation.

II. ACCOUNTABILITY

The Office of Institutional Equity and Diversity (“OIED”) is responsible for implementation and enforcement of these procedures. Students found responsible for a violation of Prohibited Conduct will be subject to the range of sanctions listed in Appendix C of this Process and other applicable university policies and procedures.

III. APPLICABILITY

This policy applies to students, from their time of acceptance and admission into William Paterson University, recognized student organizations, applicants, visitors, and guests, when the prohibited conduct occurs (A) on university property; (B) in the context of any university activity; (C) or outside the context of university activities but which may have the effect of posing a serious threat to the university community or creating a hostile environment for any members of the university community; (D) or activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University’s programs and activities over which the University has substantial control.

IV. DEFINITION(S)

See Section IV “Definitions and Key Terminology” of the *Student Sexual Misconduct and Non-Discrimination Policy (Non-Title IX)*.

V. BACKGROUND

The University is committed to complying with all applicable regulations including, (a) Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities; (b) the Clery Act (Campus SAVE) and the Violence Against Women Reauthorization Act of 2013 (VAWA) which ensures prompt, fair, and impartial investigation and resolution of allegations of sexual assault, stalking, dating violence, and domestic violence; (c) the Americans with Disabilities Act Amendments Act (ADA), as amended in 2008, that emphasizes that the definition of a "person with a disability" is someone with a physical or mental impairment that substantially limits one or more major life activities; and the (d) Family Educational Rights and Privacy Act (FERPA), which is a Federal law that protects the privacy of student education records and applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

The New Jersey Student Bill of Rights that calls for a student’s “access to safe, supportive and inclusive learning environments.” William Paterson University shares this vision and works to ensure that students are not only safe from harm but also included and welcome on campus.

VII. POLICY

[See *Student Sexual Misconduct and Non-Discrimination Policy \(Non-Title IX\)*](#)

VIII **Student Sexual Misconduct and Non-Discrimination Process**

A. Initial Assessment & Preliminary Review

1. Upon receiving a notice of allegations of Sexual Misconduct and/or harassment, the Title IX Coordinator(s) or their designee will assess the allegation(s) and invite the Complainant to a

preliminary interview to review the allegation(s), to discuss the formal investigation process, to discuss the Alternative Resolution option, if applicable, and to discuss applicable supportive measures and interim protections, if any.

2. The formal investigation process begins upon signing the Student Sexual Misconduct intake form, which designates the filing of the formal complaint. This form must be physically or digitally signed and dated by the Complainant and/or Title IX Coordinator(s).
3. If a Complainant does not wish to make a formal complaint, the Title IX Coordinator(s) may determine a formal complaint is necessary. The University will inform the Complainant of this decision in writing, and the Complainant need not participate in the process further, but will receive all notices issued under the Student Sexual Misconduct and Non-Discrimination Policy and this Process.
4. A Complainant who files a formal complaint may elect, at any time, to address the matter through the University's Alternative Resolution Process, if applicable. [See Appendix A]
5. A Formal Complaint does not need to be filed with OIED to receive supportive measures and interim protections.

B. Violations of University Policy Unrelated to Prohibited Conduct

If an initial assessment or investigation identifies additional possible violations of University policy other than violations of the prohibited conduct governed by this Process, the Title IX Coordinator may direct the allegations to the Director of Student Conduct or other University official for review and adjudication. This does not include any violations that fall within the University Alcohol and Drug Amnesty policy.

C. Consolidating Complaints

The University may consolidate formal complaints alleging prohibited sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

D. Formal Investigation Process

1. General Rules of Investigations

- a. The timeframe for the formal investigation begins with the filing of a formal complaint. The formal investigation will be concluded within a reasonably prompt manner, and no longer than one hundred and twenty (120) days after the filing of the formal complaint, provided that the process may be extended for good cause.
- b. The University, and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility.
- c. The University cannot access, consider, or disclose medical records without a waiver from the party (or parent/guardian, if applicable) to whom the records belong or of whom the records include information. The University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e., evidence that tends to prove and disprove the allegations) as described below.

2. **Advisors:** Complainants and respondents have the right to be accompanied by an advisor during the investigation although it is not mandatory. The advisor may be any individual of the parties' choice, including, a lawyer, a family member, faculty, or other employee. Advisors may attend meetings with the party, but shall not answer questions on behalf of the party during investigative interviews. The advisor does not have a speaking role during the interview process. An advisor who interferes in the interview and investigation process will be removed from the interview. Advisors may assist a party during the investigation, submit evidence for the party, inspect and review evidence, prepare and submit responses to the investigator, respond to charges filed against the student, and file an appeal.
3. **Notification of Allegations and Investigation**
 - a. **Notice of Allegations:** The Title IX Coordinator (s) or their designee will draft and provide the Notice of Allegations to the parties. The communication includes information about the investigation process including the allegations to be investigated, the policy and what sections of the policy against which the allegations are assessed, the rights the parties have throughout the investigation process, and any other information that is pertinent to the investigation of that particular case.
 - b. **Ongoing Notice:** If in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations and are otherwise covered sexual harassment falling within the Sexual Misconduct Policy, the University will notify the parties whose identities are known of the additional allegations via their University email accounts or other reasonable means. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.
 - c. **Notice of Meetings and Interviews:** The University will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

4. **Information Gathering**

During this phase of the process, the parties are each provided an opportunity to provide information to the Title IX Coordinator(s) to review, to interview with the Title IX Coordinator(s) and to provide the names of witnesses.

The Title IX Coordinator(s) will meet with the Complainant and Respondent separately to discuss the evidence that will be used to reach an outcome and to allow the parties the opportunity to present any additional information, evidence, or witnesses.

The Complainant and Respondent will be provided the opportunity to write an Impact Statement anytime before the conclusion of the investigation. Impact Statements are an opportunity for the Title IX Coordinator(s), to read and learn how the alleged misconduct has affected each student.

5. **Investigative Report**

The Title IX Coordinator(s), or their designee, will draft an Investigative Report. The Investigative Report will summarize the relevant exculpatory and inculpatory evidence, and findings of credibility will be noted. The Investigative Report is not intended to catalog all evidence obtained during the investigation, but only to provide a summary of that evidence. The investigator may redact information not directly related or relevant to the allegations from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

E. Determination of Responsibility

The Title IX Coordinator(s) will make a recommendation to the Chief of Staff of determination of responsibility and a violation of the Student Sexual Misconduct and Non-Discrimination Policy. This communication includes information about the finding of responsibility and an analysis to support the determination.

1. Notice of Determination

- a. The written determination regarding responsibility will be issued by the Title IX Coordinator simultaneously to all parties through their University email account, or other reasonable means as necessary.
- b. The determination will include:
 - i. Identification of the allegations potentially constituting covered sexual harassment and/or gender discrimination;
 - ii. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination; and
 - iii. Findings of fact supporting the determination.
 - iv. For each allegation:
 - A statement of, and rationale for, a determination regarding responsibility; and
 - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the Complainant;
 - Conclusions regarding application of the University policies and whether the Respondent has or has not violated;
 - v. If a student is found to be in violation of the Policy, the sanction will be included in the determination letter only to the respondent student.
 - vi. The University's procedures and the permitted reasons for the Complainant and Respondent to appeal (described below in "Appeal").

2. Educational Outcomes

Educational outcomes shall be issued to a student found responsible for violating this policy. Any finding of responsibility, no matter how slight, will result in students being assigned educational outcomes. Examples of Educational Outcomes include, but not limited to:

- *Sexual Violence Prevention Module*
- *Alcohol and Drug Module*
- *Community Service during campus Prevention and Awareness Events*
- *Participate in Awareness & Prevention Sessions*
- *Other Educational Requirements as assigned by the Title IX Coordinator(s)*

A student's failure to comply with the educational outcomes may be subject to the Student Code of Conduct.

3. Disciplinary Sanctions

The determination of disciplinary sanctions for violations requires careful review of numerous factors and circumstances. Some factors are specific to the Respondent, such as a prior history of misconduct, evidence of a pattern of behavior, and/or multiple violations within the same occurrence. Other factors relate to the circumstances surrounding or contributing to the offense

at issue, such as the severity of the incident, the intentionality or premeditation of the behavior, and/or whether the conduct involved physical violence, a minor, and/or the use of a weapon.

F. Appeal of Determination & Sanctions

1. Both Complainants and Respondents have the right to appeal a determination regarding responsibility.
2. To appeal, a party must submit their written appeal to the Title IX Coordinator within five (5) business days of being notified of the determination, indicating the grounds for the appeal.
3. The Title IX Coordinator will submit the appeal to the Vice President for Student Development. The Vice President for Student Development, or their designee, shall not have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case.
4. Grounds for appeal of a determination of violation and sanctions are limited to the following:
 - a. Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
 - b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter. (A party's failure to attend a hearing or provide information during a hearing does not constitute grounds for appeal on the basis of new information.);
 - c. The Title IX Coordinator or investigator(s) had a conflict of interest or bias; and/or
 - d. Sanctions are disproportionate to the policy violation.¹
5. The original determination and sanction(s) will stand if the appeal is not timely or is not based on the grounds listed above.
6. When a party requests an appeal of the determination of responsibility, the other party (parties) will be notified of the appeal and grounds and given an opportunity to respond with a written statement submitted to the Title IX Coordinator within five (5) business days of the notification. The written response must be received by 11:59pm on the fifth business day.
7. The Vice President for Student Development or their designee will review the appeal and any subsequent responses and render a decision, in writing to all parties, within ten (10) business days of the final submittal deadline.
8. Appeals are not intended to be full re-hearings of the complaint. Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal.
9. The submission of appeal halts any sanctions until a decision is reached on the appeal. Supportive and Interim Measures, including remote learning opportunities, remain available during the pendency of the appeal.

¹ Only loss of housing, suspension and dismissal are appealable sanctions and only the Respondent student may file an appeal on this basis.

10. The implementation of sanctions involving loss of campus housing or class attendance may be delayed only when the Respondent files an appeal regarding loss or suspension of these privileges. These privileges may be reinstated pending the conclusion of the appeal process.
11. Outcome of the appeal of determination will be provided in writing simultaneously to both parties, and include rationale for the decision. Outcome of the appeal of sanctions will only be provided to the Respondent student.
12. The decision of the appeal is the final action of the University.

Appendix A: Alternative Resolution

Alternative Resolution is a voluntary process, which permits methods (i.e. facilitated conversations, shutting, circling, and mediation) of resolving incidents when the Complainant does not want a formal investigation or when the Title IX Coordinator(s) may seek to resolve certain allegations through an alternative resolution process involving the parties.

Alternative Resolution can take place after the preliminary assessment, in place of the formal investigation, if both parties consent and the Title IX Coordinator(s) agrees that it is appropriate. The parties may also opt to withdraw from a formal investigation and request Alternative Resolution, which will be granted at the discretion of the Title IX Coordinator(s). Before starting this process, the Title IX Coordinator(s) will notify the parties in writing that each has the right to end the Alternative Resolution process at any time.

The Alternative Resolution process allows a Respondent in a case to accept responsibility for their behavior and/or potential harm. A Respondent who fully participates in the process will not be charged with a violation of University Policy. The Alternative Resolution process is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Complainant while still maintaining the safety of the overall campus community.

At the conclusion of the alternative resolution, if the parties are satisfied with the proposed resolution and the Title IX Coordinator(s) believes the resolution satisfies the University's obligation to provide a safe and non-discriminatory environment for all students, the resolution will be implemented, the disciplinary process will be concluded, the matter will be closed, and both parties will be provided with written notice of the resolution. If these efforts are unsuccessful, the investigation and/or disciplinary process may continue.

Alternative Resolution Requirements for Participation

The Alternative Resolution process will only be used at the request and agreement of **both** the Complainant and Respondent and under the direction of the Title IX Coordinator(s), or designee.

In order for the Alternative Resolution process to be appropriate **both** parties must have an understanding and agree on the necessary elements of the process. Both the Complainant and Respondent will have to agree to established terms should they wish to participate in the alternative resolution process.

The University will not offer or facilitate an Alternative Resolution process to resolve allegations that an employee sexually harassed a student or for any matters of sexual assault, or sexual violence.

Alternative Resolution Education Outcomes for Students

- **Restorative practices.** Participation in a discussion by trained facilitators with any persons or departments harmed and development of a shared agreement of how to correct the harm. All participants must voluntarily agree to participate in the restorative process.
- **Facilitate Conversations.** Participation in a mediated discussion with other disputants facilitated by trained mediators with the hope of developing a negotiated agreement serving as resolution to the dispute. All participants must voluntarily agree to participate in mediation.
- **Other Discretionary sanctions.** Work assignments, essays, presentations, research projects, conduct contracts, service to the University, or other discretionary assignments.

Appendix B - Considerations for Sexual Misconduct Violations and Sanctioning

Having a range of sanctioning provides consistency and transparency for the parties involved in the sanctioning process, helps to avoid arbitrary and capricious sanctioning decisions, and the appearance of the same, and simultaneously recognizes that certain instances of a particular type of misconduct can be articulated as being more severe than others.

Each Prohibited Conduct violation of Sexual Misconduct allows for a range of outcomes and sanctions. A violation that is more egregious receives more severe sanctions (such as Suspension and Expulsion from the University) within the allotted range and a less egregious violation results in less severe sanctions within the same range (such as Campus Life Probation or Extracurricular Leadership or Participation Suspension.) Certain circumstances permit a decision maker to deviate from the sanction range outlined below.²

Factors to consider in determining appropriate sanctions include:

- The nature of the offense,
- The severity of the offense,
- The culpability of the student or student group,
- The impact on other students or members of the University community, and
- The opportunity for student development.

Also, each case involving sexual misconduct are unique and the facts/findings may yield different results. These factors, if present, **may increase the severity of sanctions.**

- Use of force
- Use of weapons
- Incapacitation and/or drugs
- Threats to the community
- Coercion
- Manipulation
- Persistent violations and prior conduct history
- Penetration

² The Title IX Coordinators or designee will conduct a safety assessment to determine the potential threat to the community. The University retains the right to remove a student who poses a threat to the community at any time.

Appendix C: Range of Sanctions for Student Respondents

The following sanctions may be assigned for violations of the Student Sexual Misconduct and Non-Discrimination Policy. These sanctions may be imposed separately or in conjunction with other sanctions. **Please note that a student’s cumulative conduct history, as well as the sanctions assessed to other students in similar cases, will be considered for the assignment of sanctions.**

1. *Official Warning* — The student receives notification from the Title IX Coordinator or designee, indicating that a violation of the Student Sexual Misconduct and Non-Discrimination Policy has occurred and warning that any subsequent violation may be treated more seriously.
2. *Restorative Practices* – The student may be offered an opportunity to learn about WPU’s community expectations for minor policy violations and correct disruptive behaviors for first time violations without incurring sanctions or a conduct record.
3. *Educational Sanctions* — Educational sanctions may be imposed in an effort to promote student learning about a particular topic or policy violation. For example, students may have community service projects or educational workshops assigned.
4. *Restitution* — The student is required to make payment to the University or to other persons, groups, or organizations for damages incurred as a result of violations of the Student Code of Conduct.
5. *Order of No Contact* – The student and their friends and acquaintances may be restricted from having any contact with another member of the University community. This sanction can include but is not limited to the exclusion from any University building or property, communication restrictions involving the University member, whether on University property or not, and placing responsibility on the student and their friends and acquaintances to maintain the communication restriction regarding the designated University member.
6. *Building Restrictions* – The student may lose access privileges into any university building, including one or several residence halls, when the behavior exhibited inside such a location has caused a safety concern.
7. *Campus Life Probation* – A defined period of time whereby any registered student is given an opportunity to modify behavior or risk more severe sanctions. Any subsequent violation of the Student Sexual Misconduct and Non-Discrimination Policy or Student Code of Conduct, while on Campus Life Probation, may result in further disciplinary action.
8. *Extracurricular Leadership Suspension* – A student placed on Extracurricular Leadership Suspension cannot hold a leadership position for any extracurricular group, club, team or activity for a defined period time.
9. *Extracurricular Participation Suspension* – A student placed on Extracurricular Participation Suspension cannot participate in any extracurricular group, club, team or activity for a defined period of time.
10. *Administrative Relocation* – The student can be required to relocate to a new housing assignment during or after the conclusion of the hearing process. This sanction is utilized to ensure the safety and peace of mind of the residential community at the discretion of the Director of Student Conduct or Office of Residence Life. The student is responsible for any charges that may result from relocating from one residence hall to another.
11. *Loss of Campus Housing* – The student may not reside in, visit, or enter any of the residence halls on campus. This includes entrances, foyers, lounges, rooms, hallways and common areas. The student is not entitled to any refund of campus housing and/or meal plan fees after the scheduled refund dates.
12. *Suspension from the University* — The student may not be a registered student, be present on campus, or attend University sponsored events for any reason while suspended from the University. The minimum length of a suspension is one semester; there is no maximum. The student is not entitled to a refund of any tuition or fees after the scheduled refund dates.
13. *Expulsion from the University* — The student may not ever again be a registered student, be present on campus, or attend University sponsored events. The student is not entitled to a refund of any tuition or fees after the scheduled refund dates.

If good cause exists, as determined by the Title IX Coordinator(s) or designee and in consultation with appropriate University officials, any and all of the above sanctions can be imposed on the student on an interim basis pending an investigation, hearing, and final resolution of any pending charges.