

TITLE IX AND THE CLERY ACT

Student Handbook pp. 11-22





TITLE IX

- TITLE IX IS A FEDERAL CIVIL RIGHTS LAW PASSED AS PART OF THE EDUCATION AMENDMENTS OF 1972.
- “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.”





CLERY ACT (AND VAWA)

- LAW PERTAINING TO INSTITUTIONS THAT RECEIVE FEDERAL FINANCIAL AID. ENSURES THAT STUDENTS AND EMPLOYEES HAVE SPECIFIC RIGHTS THAT ARE TO BE GUARANTEED BY THEIR INSTITUTION CONCERNING SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING. REQUIRES INSTITUTIONS TO PROVIDE PREVENTION/AWARENESS PROGRAMS.

DEFINITIONS

- **SEX DISCRIMINATION:** DISCRIMINATION IN EDUCATION PROGRAMS OR ACTIVITIES, INCLUDING EMPLOYMENT, ADMISSION, AND/OR PARTICIPATION IN SPORTS OR SCHOOL ORGANIZATIONS ON THE BASIS OF ONE'S SEX.



- **SEXUAL HARASSMENT:** CONDUCT ON THE BASIS OF SEX THAT SATISFIES ONE OR MORE OF THE FOLLOWING:
 - AN EMPLOYEE OF THE SCHOOL CONDITIONING THE PROVISION OF AN AID, BENEFIT, OR SERVICE OF THE SCHOOL ON AN INDIVIDUAL'S PARTICIPATION IN UNWELCOME SEXUAL CONDUCT (*QUID PRO QUO* HARASSMENT);
 - 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 SCHOOL'S EDUCATION PROGRAM OR ACTIVITY; OR
 - SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING



- **SEXUAL ASSAULT:** ANY SEXUAL ACT DIRECTED AGAINST ANOTHER PERSON, WITHOUT CONSENT OF THE VICTIM, INCLUDING INSTANCES WHERE THE VICTIM IS INCAPABLE OF GIVING CONSENT, THAT MEETS THE DEFINITION OF RAPE, FONDLING, INCEST AND STATUTORY RAPE.

- **DATING VIOLENCE:** VIOLENCE COMMITTED BY A PERSON WHO IS OR HAS BEEN IN A SOCIAL RELATIONSHIP OF A ROMANTIC OR INTIMATE NATURE WITH THE VICTIM. THE EXISTENCE OF SUCH A RELATIONSHIP SHALL BE DETERMINED BASED ON THE COMPLAINANT'S STATEMENT AND WITH CONSIDERATION OF THE LENGTH OF THE RELATIONSHIP, THE TYPE OF RELATIONSHIP, AND THE FREQUENCY OF INTERACTION BETWEEN THE PERSONS INVOLVED IN THE RELATIONSHIP. FOR PURPOSES OF THIS DEFINITION, DATING VIOLENCE INCLUDES, BUT IS NOT LIMITED TO, SEXUAL OR PHYSICAL ABUSE OR THE THREAT OF SUCH ABUSE, AND DATING VIOLENCE DOES NOT INCLUDE ACTS COVERED UNDER THE DEFINITION OF DOMESTIC VIOLENCE.



- **DOMESTIC VIOLENCE:** A FELONY OR MISDEMEANOR CRIME OF VIOLENCE COMMITTED: (1) BY A CURRENT OR FORMER SPOUSE OR INTIMATE PARTNER OF THE VICTIM; (2) BY A PERSON WITH WHOM THE VICTIM SHARES A CHILD IN COMMON; (3) BY A PERSON WHO IS COHABITATING WITH, OR HAS COHABITATED WITH, THE VICTIM AS A SPOUSE OR INTIMATE PARTNER; (4) BY A PERSON SIMILARLY SITUATED TO A SPOUSE OF THE VICTIM UNDER THE DOMESTIC OR FAMILY VIOLENCE LAWS OF THE JURISDICTION IN WHICH THE CRIME OF VIOLENCE OCCURRED; OR (5) 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 IN WHICH THE CRIME OF VIOLENCE OCCURRED.



- **STALKING:** ENGAGING IN A COURSE OF CONDUCT DIRECTED AT A SPECIFIC PERSON THAT WOULD CAUSE A REASONABLE PERSON TO: FEAR FOR THE PERSON'S SAFETY OR THE SAFETY OF OTHERS OR SUFFER SUBSTANTIAL EMOTIONAL DISTRESS. FOR THE PURPOSES OF THIS DEFINITION, COURSE OF CONDUCT MEANS TWO OR MORE ACTS, INCLUDING, BUT NOT LIMITED TO, ACTS IN WHICH THE STALKER DIRECTLY, INDIRECTLY, OR THROUGH THIRD PARTIES, BY ANY ACTION, METHOD, DEVICE, OR MEANS, FOLLOWS, MONITORS, OBSERVES, OR SURVEILS, THREATENS, OR COMMUNICATES TO OR ABOUT A PERSON, OR INTERFERES WITH A PERSON'S PROPERTY; AND REASONABLE PERSON MEANS A REASONABLE PERSON UNDER SIMILAR CIRCUMSTANCES AND WITH SIMILAR IDENTITIES TO THE VICTIM.



- **SEXUAL VIOLENCE:** INCIDENTS OF SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING.



- **CONSENT:** ALL SCHOOL STANDARDS PROHIBIT SEXUAL ACTIVITY OUTSIDE OF MARRIAGE. IN ADDITION, SEXUAL ACTIVITY REQUIRES CONSENT FROM BOTH PARTIES INVOLVED AS A MATTER OF STATE AND FEDERAL LAW. CONSENT MUST BE VOLUNTARY, CLEAR AND UNAMBIGUOUS BETWEEN BOTH PARTIES. CONSENT CANNOT BE OBTAINED FROM SOMEONE WHO IS A MINOR, ASLEEP, UNCONSCIOUS OR OTHERWISE MENTALLY OR PHYSICALLY INCAPACITATED. CONSENT CANNOT BE GIVEN UNDER COERCION, THREAT, OR FORCE.



**WOLBI PROHIBITS ALL SEXUAL VIOLENCE
AND SEXUAL HARASSMENT, INCLUDING ANY
DISCRIMINATION BASED ON SEX.
CONSENSUAL EXTRA-MARITAL OR
PREMARITAL SEXUAL ACTS ARE ALSO
PROHIBITED.**





- **EDUCATION PROGRAM OR ACTIVITY:** INCLUDES LOCATIONS, EVENTS, OR CIRCUMSTANCES OVER WHICH THE BIBLE INSTITUTE EXERCISES SUBSTANTIAL CONTROL OVER BOTH THE RESPONDENT AND THE CONTEXT IN WHICH THE SEXUAL HARASSMENT OCCURS, AND ALSO INCLUDES ANY BUILDING OWNED OR CONTROLLED BY A STUDENT ORGANIZATION THAT IS OFFICIALLY RECOGNIZED BY THE BIBLE INSTITUTE.
- APPLICABLE JURISDICTION

- **COMPLAINANT:** AN INDIVIDUAL(S) WHO IS ALLEGED TO BE THE VICTIM OF CONDUCT THAT COULD CONSTITUTE SEXUAL HARASSMENT OR SEX DISCRIMINATION.
- **RESPONDENT:** ANY INDIVIDUAL(S) WHO HAS BEEN REPORTED TO BE THE PERPETRATOR OF CONDUCT THAT COULD CONSTITUTE SEXUAL HARASSMENT.



PREVENTING SEXUAL VIOLENCE

- ABIDE BY BIBLICAL MANDATES (1 THESS. 4:1-8; 1 COR. 6:12-20, 10:12). FOLLOW THE RULES THAT WOLBI HAS IN PLACE
 - THIRD-PARTY
 - PHYSICAL CONTACT (BRIEF EMBRACES; NO HOLDING HANDS, KISSING, ETC.) – INCLUDING BETWEEN MEMBERS OF THE SAME SEX
 - DON'T DRINK (50% OF SEXUAL ASSAULTS AND 90% OF RAPES COMMITTED BY ACQUAINTANCES OF VICTIMS INVOLVE ALCOHOL (STATS FROM AMERICAN ADDICTION CENTERS))
- DON'T TRAVEL ALONE (IF YOU DO, SHARE YOUR LOCATION WITH SOMEONE YOU TRUST OR INFORM THEM OF YOUR PLANS)

Prevention Strategies (in part) from:
Courtney Smith-Kimble, "Realities of Sexual Assault on Campus | BestColleges," BestColleges.com,
August 24, 2014, <https://www.bestcolleges.com/resources/sexual-assault-on-campus/>.



PREVENTING SEXUAL VIOLENCE

Lock

Lock your doors at night (ID card scanners reduce risk)

Know

Know your resources (Campus Security and Health Center numbers are located on the back of your ID)

Stay

Stay within well-lit areas

Take

Take care with Social Media (posting in real time with locations)

Tell

Tell someone if you're uncomfortable



BYSTANDER INTERVENTION

- DISRUPT (IF SAFE) – DISTRACT THE HARASSER OR TRY TO JUMP INTO THE INTERACTION TO GET THE TARGET OUT OF THE SITUATION
- GET SUPPORT – IF ARE NOT THE ONLY WITNESS, ASK FOR HELP IN INTERRUPTING THE SITUATION
 - CALL SECURITY IF NEEDED
- SPEAK UP – WHEN SAFE, ITS COMPLETELY APPROPRIATE TO TELL THE HARASSER THAT WHAT THEY'RE DOING IS INAPPROPRIATE
 - SPEAK UP EARLY AGAINST THINGS LIKE SEXUAL JOKES, SUGGESTIVE COMMENTS, INAPPROPRIATE PDA, ETC.



FILING A COMPLAINT OR GRIEVANCE

- GENERAL COMPLAINTS/CONCERNS/GRIEVANCES
 - [HTTPS://STUDENTPORTAL.WOL.ORG/COMPLAINTS-OR-CONCERNS/](https://studentportal.wol.org/complaints-or-concerns/) (GO TO STUDENT PORTAL, CLICK ON THE “RESOURCES” TAB, AND THEN CLICK “COMPLAINTS OR CONCERNS”)
- TITLE IX OR CLERY ACT GRIEVANCES
 - SUBMITTED IN PERSON, THROUGH EMAIL, OR THROUGH MAIL TO THE TITLE IX COORDINATOR.
 - FORMAL COMPLAINTS EITHER SUBMITTED BY THE COMPLAINANT OR SIGNED BY THE TITLE IX COORDINATOR. DEALT WITH IN A MANNER THAT IS NOT DELIBERATELY INDIFFERENT.



TITLE IX COORDINATOR

- JUSTIN LOUGH
- JPLOUGH@WORDOFLIFE.EDU
- OFFICE LOCATED IN THE PAGE CENTER FOR STUDENT SUCCESS
- PHONE: 518-494-1478



TITLE IX GRIEVANCE PROCEDURE

- REPORT!!!! IT SHOULDN'T JUST BE THE VICTIM
 - RESPONSIBLE EMPLOYEES, FRIENDS, PEERS, RA'S, RD'S, DEANS, ETC. — BRING TO TITLE IX COORDINATOR OR STUDENT LIFE
 - MANDATORY REPORTERS: DEANS (MEN, WOMEN, STUDENTS, ACADEMICS, MINISTRIES, EXECUTIVE DEANS), RD'S, HEALTH AND SECURITY COORDINATOR, EXECUTIVE VP (MR. PEACE)
 - 80% OF SEXUAL VIOLENCE CASES GO UNREPORTED (SMITH-KIMBLE, "REALITIES OF SEXUAL ASSAULT ON CAMPUS")



GRIEVANCE PROCEDURE

- TITLE IX COORDINATOR REACHES OUT, EXPLAINS SUPPORTIVE MEASURES, EXPLAINS GRIEVANCE PROCESS, PROVIDES INFORMATION ON RIGHTS OF VICTIMS OF SEXUAL VIOLENCE
- ONCE A FORMAL COMPLAINT IS FILED:
 - NOTICE OF ALLEGATIONS PRIOR TO INVESTIGATION
 - OPTION FOR INFORMAL RESOLUTION PROVIDED
 - INVESTIGATION – INTERVIEWS, WITNESSES, PRESENT EVIDENCE
 - PRELIMINARY INVESTIGATIVE REPORT – 10 DAYS TO RESPOND
 - FINAL INVESTIGATIVE REPORT (WRITTEN AFTER 10-DAY PERIOD; 10 DAYS PRIOR TO HEARING)



- WRITTEN NOTICE OF HEARING (USUALLY WITH FINAL INVESTIGATIVE REPORT)
- LIVE HEARING
 - ADVISORS (BOTH PARTIES; MUST BE PROVIDED)
 - **CROSS EXAMINATION** (DIRECTLY, ORALLY, REAL-TIME) – NOT SUBMITTING TO CROSS EXAMINATION DISCREDITS YOUR TESTIMONY
 - NEUTRAL DECISION-MAKER/ADJUDICATOR (THINK OF A JUDGE IN A COURTROOM)



- DETERMINATION OF RESPONSIBILITY (PREPONDERANCE OF EVIDENCE STANDARD I.E., MORE LIKELY THAN NOT OR 50%)
 - RECAP OF ALLEGATIONS; DESCRIPTION OF PROCEDURE/METHODS; FINDINGS OF FACT; CONCLUSIONS CONCERNING WOLBI CODE OF CONDUCT; DETERMINATION OF RESPONSIBILITY CONCERNING ALLEGATIONS; DISCIPLINARY SANCTIONS (IF ANY); REMEDIES TO PRESERVE EQUAL ACCESS; APPEAL PROCEDURE
 - NOTICE OF INTENT TO APPEAL MUST BE RECEIVED WITHIN 15 DAYS OF DETERMINATION
 - PROCEDURAL IRREGULARITY
 - NEW EVIDENCE THAT SURFACED
 - BIAS AMONG TITLE IX PERSONNEL
 - SANCTION DOES NOT MATCH INFRACTION
 - BOTH PARTIES CAN RESPOND TO AN APPEAL. DECISION OF EXECUTIVE VP CONCERNING APPEAL IS FINAL



THINGS TO KNOW

- EVIDENCE OF SEXUAL VIOLENCE OR HARASSMENT SHOULD BE PRESERVED, IF POSSIBLE
- RETALIATION NOT TOLERATED AGAINST COMPLAINANTS, WITNESSES, RESPONDENTS, REPORTERS, PARTICIPANTS, **OR THOSE WHO REFUSE TO PARTICIPATE**
- FALSE COMPLAINTS CAN BE SUBJECT TO DISCIPLINE
- REMEDIES/SANCTIONS FOR STUDENTS INCLUDE CAMPUSING, WORK DUTIES, COUNSELING, SUSPENSION, OR DISMISSAL. FOR EMPLOYEES: WARNING, LEAVE OF ABSENCES, OR TERMINATION



THINGS TO KNOW

Formal complaints can be dismissed if:

- The complainant withdraws
- The respondent is no longer enrolled at or employed by WOLBI
- Circumstances prevent the gathering of sufficient evidence to make a determination

Formal complaint dismissals can be appealed

FERPA still applies... your privacy will be protected (doctor-patient; counselor-client; lawyer-client; student grades)



COMPLAINANT RIGHTS (HANDBOOK, 21-22)

1. TO RECEIVE INFORMATION ABOUT THE IMPORTANCE OF PRESERVING EVIDENCE, HOW TO REPORT AN OFFENSE, AND THE TITLE IX GRIEVANCE PROCEDURE FOR ADDRESSING COMPLAINTS.
2. TO MAKE DECISIONS AFFECTING THEIR MEDICAL AND EMOTIONAL TREATMENT AND WHETHER THEY CHOOSE TO FILE A FORMAL COMPLAINT.
3. TO HAVE CONTROL OVER MAKING DECISIONS ABOUT WHETHER TO COOPERATE WITH LAW ENFORCEMENT.
4. TO RECEIVE INFORMATION ABOUT THE AVAILABILITY OF PROTECTIVE ORDERS.
5. TO BE NOTIFIED IN ADVANCE OF THE DATE, TIME, AND LOCATION OF ANY INVESTIGATIVE MEETINGS AND/OR HEARINGS IN ORDER TO EFFECTIVELY PREPARE.



6. TO REVIEW AND COMMENT ON ALL EVIDENCE THAT WILL BE CONSIDERED IN THE INVESTIGATION AND DECISION-MAKING PROCESS IF A FORMAL COMPLAINT IS FILED.
7. TO RECEIVE WRITTEN NOTIFICATION OF SUPPORTIVE MEASURES AVAILABLE FROM THE BIBLE INSTITUTE.
8. TO RECEIVE WRITTEN NOTIFICATION OF RESOURCES FOR VICTIMS AVAILABLE AT THE BIBLE INSTITUTE AND IN THE COMMUNITY.
9. TO BE ASSURED OF CONFIDENTIALITY BY THE BIBLE INSTITUTE TO THE EXTENT POSSIBLE AND CONSISTENT WITH PROCEDURES OUTLINED IN THIS POLICY.
10. TO HAVE AN ADVISOR OF THEIR CHOICE, INCLUDING LEGAL COUNSEL, DURING ANY TITLE IX INVESTIGATION, HEARING, OR APPEAL PROCEEDING.



11. NOT TO HAVE THEIR PRIOR SEXUAL HISTORY DISCUSSED DURING THE INVESTIGATION OR HEARING UNLESS RELEVANT IN DETERMINING RESPONSIBILITY OR CONSENT.

12. TO BE INFORMED OF THE OUTCOME OF THE INFORMAL AND FORMAL RESOLUTION PROCEDURES.

13. TO APPEAL THE FINAL DETERMINATION (ON THE PERMITTED GROUNDS) OR THE DISMISSAL OF A FORMAL COMPLAINT.

SUPPORTIVE MEASURES (BEFORE, DURING, AFTER)

- GOAL: TO ENABLE EQUAL ACCESS (COMPLAINANT & RESPONDENT)
- NON-PUNITIVE, NON-DISCIPLINARY, NOT UNREASONABLY BURDENSOME TO EITHER PARTY. ALWAYS A CASE-BY-CASE BASIS.
- THE CENTER FOR BIBLICAL COUNSELING
- DEADLINE EXTENSIONS/COURSE-RELATED ADJUSTMENTS
- CHANGE TO WORK ASSIGNMENT, CLASS SCHEDULE, OR HOUSING.
- CONTACT RESTRICTIONS; ESCORT SERVICES; HEIGHTENED SECURITY; LEAVE OF ABSENCE; **LAW ENFORCEMENT & MEDICAL ATTENTION**; EMERGENCY REMOVAL



ADDITIONAL RESOURCES

- THE NATIONAL SEXUAL ASSAULT ONLINE HOTLINE AND CONFIDENTIAL CHAT: 800-656-HOPE (RAINN.ORG)
- SAFEHORIZON HOTLINE: 212-227-3000
- OFF-CAMPUS COUNSELING SERVICES; MEDICAL SERVICES
- CONTACT CAMPUS SAFETY. IF YOU ARE IN IMMEDIATE DANGER, 911 IS ALWAYS AN OPTION.



TITLE IX INVESTIGATORS

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