

# WESLEYAN UNIVERSITY

## POLICY AND PROCEDURES

### SEXUAL MISCONDUCT UNDER TITLE IX

**Effective August 1, 2024**

Wesleyan University will not tolerate discriminatory harassment and/or sexual misconduct against students, faculty, staff, trustees, volunteers, and employees of any university contractors/agents.

Discriminatory harassment and complaints under Title VI, Title VII, and aspects of Title IX that are not sexual misconduct are covered under the Policy Prohibiting Discriminatory Harassment and follow similar procedures as outlined in this document.

These policies and procedures apply to all university community members, and all members are responsible for being familiar with and abiding by them.

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## **A. Introduction**

Wesleyan is an institution devoted to learning, openness, and the life of the mind. It follows that its character can be measured in part by the kind of human relationships built and sustained within this small but complex environment. Wesleyan strives to be a community built upon mutual trust and respect for members of our community, including students, faculty and staff. A community will flourish only to the degree that the virtues of mutual respect, generosity, and concern for others are maintained. All members of our community are responsible for fostering an appropriate environment at Wesleyan.

Harassment and discrimination in any form will not be tolerated and Wesleyan has policies and procedures in place to achieve this result. This policy specifically addresses sexual misconduct as defined by the U.S. Department of Education Office for Civil Rights Title IX regulations. Wesleyan will respond promptly to all reports and complaints of sexual misconduct.

All students, faculty and staff in the Wesleyan community are expected to cooperate in good faith in any activities associated with this policy.

This policy is reviewed and updated as needed. Wesleyan's Office for Equity & Inclusion webpage is the source for the most current policy. The University also retains the discretion to deviate from specific provisions in this Policy when there are reasonable grounds to do so because of unusual circumstances.

The Title IX Coordinator has overall responsibility for implementing this Policy and may delegate specific tasks to other University employees as necessary.

## **B. Jurisdiction of Policy**

While discriminatory harassment and complaints under Title VI, Title VII, and aspects of Title IX that are not sexual misconduct are also covered under the Policy Prohibiting Discriminatory Harassment and Sexual Misconduct.; this particular policy addresses the sexual misconduct aspect of Title IX (as defined in Section C below). Specifically misconduct involving

1. Any student enrolled at Wesleyan and/or participating in its education programs and activities;
2. Any individual (including students, alumni, faculty, staff, families and/or authorized volunteers) participating in Wesleyan's educational programs and activities; and
3. Applicants for admission or employment at Wesleyan.

When the misconduct occurs:

1. In a Wesleyan program and/or activity (including University-approved student organizations); including on and off campus including programs within and outside of the United States.
2. When Wesleyan has substantial control over the individual who allegedly engaged in conduct that violates this policy.

Individuals are encouraged to contact the Title IX Coordinator or other individuals identified in Section E below if they have any questions concerning possible sexual misconduct of any kind or wish to make a report so that the matter can be addressed under the appropriate policy.

## **C. Conduct Covered by Policy**

The conduct covered by this policy (and within the jurisdiction discussed in Section B) includes:

- Quid pro quo sexual harassment by an employee;
- Hostile environment sexual harassment;
- Sexual assault;
- Dating violence;
- Stalking;
- Domestic violence;
- Exploitation and
- Retaliation connected to reporting or participating in this process.

Definitions of these terms are provided in Section D below.

Individuals are encouraged to contact the Title IX Coordinator or other individuals identified in Section E below if they have any questions concerning possible sexual misconduct of any kind or wish to make a report of sexual misconduct so that the matter can be addressed under the appropriate policy.

## **D. Definitions**

This section provides definitions of sexual misconduct prohibited by Title IX within the jurisdiction discussed in Section C, as well as general definitions applicable to the Title IX process. Sexual misconduct can be committed by and/or against individuals regardless of their gender, gender identity, gender expression or sexual orientation, and can be committed using technology.

### **1. Prohibited Conduct Definitions**

#### **a. Quid Pro Quo Sexual Harassment by an Employee**

- When an employee conditions an aid, benefit or service to a student (including but not limited to a grade, participation in a program/activity, a recommendation, summer employment position or other benefit) on their participation in unwelcome conduct of a sexual nature (see Hostile Environment Sexual Harassment definition below); or
- When an employee conditions an aid, benefit or service to an employee (including but not limited to an employment position, a promotion, a favorable evaluation or other benefit) on their participation in unwelcome conduct of a sexual nature (see Hostile Environment Sexual Harassment definition below).

#### **b. Hostile Environment Sexual Harassment**

Unwelcome conduct of a sexual nature (as determined by a reasonable person) that is so severe, pervasive and objectively offensive that it effectively denies a student or employee access to Wesleyan's education programs and activities. Unwelcome conduct of a sexual nature that does not meet the Title IX definition may be covered by the broader University Policy Prohibiting Discriminatory Harassment and Sexual Misconduct.

#### **c. Sexual Assault**

The Title IX regulations define sexual assault as an offense classified as a Forcible or Non-Forcible Sex Offense under the Uniform Crime Reporting System:

- **Non-consensual / forcible sex-based conduct** – Any sexual act directed against another person, without consent, including instances where the victim is in a state of incapacitation, including:
  - **Forcible Rape** – Sexual intercourse with a person, forcibly and/or without that person’s Consent or in instances of Incapacitation.
  - **Forcible Oral or Anal Sexual Intercourse** – With another person, forcibly and/or without that person’s Consent, or in instances where the victim is incapable of giving Consent because of their youth, or in instances of Incapacitation.
  - **Sexual Assault with an Object** – Use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or without that person’s Consent, or in instances where the person is incapable of giving Consent because of their youth, or in instances of Incapacitation.
  - **Forcible Fondling** – The touching of the private body parts (genitals, buttocks or breasts) of another person for the purpose of sexual gratification, forcibly and/or without that person’s Consent, or in instances where the person is incapable of giving Consent because of their youth, or because of Incapacitation.
  
- **Non-Forcible Sex Offenses** include incest and statutory rape. “Statutory rape” in Connecticut is defined as sexual activity with 1) a minor more than three years younger if the younger is at least 13 but under 16, or 2) under the age of 13 and the actor is more than two years older.

**d. Dating Violence**

Physical or sexual abuse, threats of physical or sexual abuse, or emotional abuse committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors: a) length of relationship; b) type of relationship; c) the frequency of interaction between persons in the relationship.

**e. Stalking**

A pattern of behavior 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. Stalking and harassment are similar and can overlap. Harassment may be part of a stalking pattern of behavior/course of conduct.

**f. Domestic Violence**

Physical or sexual abuse, or threats of physical or sexual abuse 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 cohabiting with or has cohabited 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 Connecticut, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family laws of Connecticut.

#### **g. Exploitation**

Sexual exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Recording images (e.g., video, photograph), audio, or otherwise of another person's sexual activity, intimate body parts, or the person in a state of undress;
- Distributing images (e.g., video, photograph), or audio of another person's sexual activity, intimate body parts, or the person in a state of undress; and
- Viewing another person's sexual activity, intimate body parts, or the person in a state of undress in a place where that person would have a reasonable expectation of privacy.

Even if a person consented to sexual activity, consent must also be given to any photographing or recording of sexual activity. In addition, even if a person consented to photographing or recording of sexual activity, consent must also be given for any distribution of that material.

#### **h. Retaliation**

No individual may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX, or because the individual has made a Report or Formal Complaint, testified, assisted, participated, or refused to participate in an investigation or hearing. Reports of retaliation should be made to the Title IX Coordinator and will be addressed through the appropriate conduct process based on the nature of the report.

#### **i. False Statements and Reports**

False reports and/or making materially false statements in bad faith in connection with this policy to any Wesleyan official, or during any Wesleyan proceeding, is prohibited and will be addressed through the appropriate conduct process based on the nature of the report. A finding that a Responding Party is not responsible for a violation of this policy does not mean that the report was made in bad faith.

### **2. General Definitions Pertinent to the Title IX Process**

#### **a. Student**

As used in this policy, a student is an individual who is enrolled/participating in Wesleyan's education programs and activities, and who has the right to file a Formal Complaint under the Title IX regulations and this policy.

#### **b. Employee**

As used in this policy, an Employee is a faculty or staff member who is employed, contracted or has applied for employment or is a volunteer in Wesleyan's education programs and activities, and who

has the right to file a Formal Complaint under the Title IX regulations and this policy. A Student employed by Wesleyan may be considered an Employee under this policy, depending on the case's particular circumstances.

**c. Report**

Any individual may make a Report of possible sexual misconduct, whether the individual is the possible victim or not. A Report is different from a Formal Complaint, which is defined below. A Report triggers an obligation by the Title IX Coordinator to discuss with and provide the possible victim with appropriate Supportive Measures (defined below), and to explain the Formal Complaint and Grievance Procedure under this policy.

**d. Formal Complaint**

A Formal Complaint can be initiated by someone who has experienced harm as defined and covered by this policy. A Formal Complaint must be made in writing to the Title IX Coordinator/designee and triggers an investigation and the Title IX Grievance Procedure.

In certain circumstances, the Title IX Coordinator may move forward with a Formal Complaint on behalf of Wesleyan (however, the Coordinator is not the Reporting Party in such circumstances).

**e. Reporting Party**

The individual who has experienced harm in the form of sexual misconduct and has filed a Formal Complaint as defined in this policy. If the Title IX Coordinator moves forward with a Formal Complaint on behalf of the possible victim, that individual retains their rights as a Reporting Party to receive notices and updates as appropriate during the Grievance Procedure.

**f. Responding Party**

The individual or group of individuals who has had a Formal Complaint filed against them for allegedly violating this policy. In cases where a student organization or team may have been involved in possible sexual misconduct, it will be addressed through the appropriate conduct process. When notified of the allegation(s), The Responding Party will receive enough information to respond to the allegations, including the name of the possible victim.

**g. Party(ies)**

The Parties are those who have reported experiencing harm and/or those responding to allegations of having caused harm in a Formal Complaint.

**h. Witness**

An individual who has relevant information regarding allegations or issues in a Formal Complaint. Witnesses may include expert witnesses.

**i. Advisor**

In accordance with both Wesleyan policy and federal regulations, each party may have an advisor of their choice present for support and advice during the formal process; this includes representation by a Union representative for employees who are members of a bargaining unit at Wesleyan. Advisors may be, but are not required to be, attorneys.

**j. Grievance Procedure**

The Title IX Grievance Procedure is initiated by filing a Formal Complaint and is the process by which the Formal Complaint is investigated and resolved.

**k. Timeframe:**

The goal in resolving complaints under this procedure is 60 business days (as defined in section D.2k) from the receipt of statements from both parties. As used in the Grievance Procedure, unless specifically stated otherwise, a day means a “business day,” Monday through Friday, and does not include days when the University is officially closed. The University calendar should be referred to as Wesleyan does not close on all state and federal holidays but may be closed at other times.

**l. Supportive Measures**

Supportive Measures are non-disciplinary, non-punitive, individualized services and/or resources offered as appropriate and reasonably available, without charge to the potential victim after a Report has been made or Formal Complaint has been filed, and to the Responding Party after a Formal Complaint has been filed.

Supportive Measures are intended to restore or preserve equitable access to Wesleyan’s education programs and activities and shall not unreasonably burden the other Party. Supportive measures may include but are not limited to: counseling; academic accommodations (such as extensions of deadlines or other course-related adjustments); course changes or drops; modifications of work or class schedules; campus escort services; mutual no contact agreements; residential accommodations (such as a change in housing or temporary housing options); changes in work locations; leaves of absence; increased security or monitoring of certain areas on campus; no trespass orders; etc.

Factors to be considered in determining reasonable Supportive Measures may include, but are not necessarily limited to:

- A specific need articulated by a Party;
- The severity and/or pervasiveness of the alleged conduct;
- Any continuing effects on a Party;
- Whether the Parties share a residence hall, dining hall, class, extracurricular activity, office space and/or other logistical considerations; and
- Whether any law enforcement and/or judicial measures have been taken to protect a Party or Parties.

**m. Investigator**

Trained internal or external individual(s) selected by Wesleyan to investigate a Formal Complaint in accordance with this policy.

**n. Determination Panel (student process only)**

Selected from a pool of well-trained, full-time, non-student members of the Wesleyan community, the 2–3-person panel and a facilitator will review and discuss all information and evidence provided in the Final Investigative Report. This panel determines whether a Responding Party(s) is responsible/not responsible for policy violations, and to impose any remedies and/or disciplinary sanctions.

**o. Actual Knowledge or Notice**

Wesleyan has “actual knowledge or notice” of alleged Title IX prohibited conduct only if a report concerning the conduct is made to Wesleyan’s Title IX Coordinators or one of that Coordinator’s designees who have authority to institute corrective measures on Wesleyan’s behalf: the Office for Equity & Inclusion, Human Resources, Academic Affairs/Provost, and/or Student Affairs. **The following action is expected when one learns of student sexual misconduct:**

- *Responsible Employees:*
  - All faculty and staff, including student employees, are understood to be “responsible” for informing the Title IX Coordinator of any incident of which they become aware.
- *Confidential Resources:*
  - Can keep confidential the information shared about experience(s).

**p. Confidential Resources**

A Confidential Resource is a resource available to students and employees who are not required to report possible Title IX prohibited conduct to the Title IX Coordinator (see Section F below).

**q. Consent**

Wesleyan defines Consent as follows:

- In the context of sexual activity, Consent is when all parties agree to engage in sexual activity. Consent should always be mutual, voluntary; and given without pressure, intimidation or fear.
- Consent must freely and affirmatively communicate a willingness to participate in sexual activity or behavior. Consent may be expressed either through words or clear, unambiguous actions. It is the responsibility of the individual who wants to engage in sexual activity to ensure the consent of their partner(s).
- Consent must be obtained at each step and be present throughout the sexual activity. A participant can withdraw consent or communicate that they no longer consent to continuing the activity. If there is confusion as to whether anyone has consented or continues to consent to sexual activity, it is essential that the participants stop the activity until the confusion is clearly and mutually resolved.
- Silence, lack of protest, or lack of resistance do not indicate consent.
- Consent is not present when there is the use of physical force, threat of physical force, intimidation, coercion, incapacitation (defined below), or any other factor that would lessen or remove an individual’s ability to exercise free will to choose whether or not to engage in a sexual activity or sexual contact.



- A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, a willingness to engage in sexual activity at a given time and place must be freely and affirmatively communicated.

**r. Incapacitation:**

Wesleyan defines Incapacitation as the inability, either temporarily or permanently, to give Consent because an individual is mentally and/or physically helpless, unconscious, sleeping, or otherwise unaware that the sexual activity is occurring. Incapacitation can exist when an individual is significantly impaired by alcohol and/or drugs (i.e., beyond merely being “drunk” or “high” as the result of the consumption of alcohol or drugs).

Some indicators of Incapacitation include lack of control over physical movements, awareness of surroundings or circumstances, slurred speech, emotional volatility, vomiting and/or sleeping. However, individuals should be aware that an individual who is in a “blackout” due to alcohol or drugs may appear to act normally and be giving Consent, but may not have conscious awareness, the ability to Consent or recall the events in question at a later time.

**s. Use of Alcohol and/or Drugs**

Wesleyan considers any sexual contact or activity while under the influence of alcohol and/or drugs to be risky behavior. Alcohol and drugs impair an individual’s decision-making capacity, awareness of consequences, and ability to make informed judgments. Alcohol and drugs can also create confusion over whether Consent has been clearly sought and/or given. Being intoxicated or impaired is never an excuse for sexual misconduct of any kind and does not diminish an individual’s responsibility for obtaining Consent. If there is any doubt as to the level or extent of another individual’s intoxication or impairment, the prudent course of action is to forego or cease any sexual activity or contact.

**t. Amnesty for Conduct Violations Related to Sexual Misconduct Reports/Formal Complaints**

Wesleyan strongly encourages individuals to report possible sexual misconduct. For this reason, the University will generally not subject an individual making a Report, or a Reporting Party, to disciplinary action for possible violations of Wesleyan’s prohibitions involving personal consumption of alcohol and/or drugs connected with a reported incident, provided that the personal consumption did not result in harm to other individuals.

The extent of any amnesty will be considered in light of the facts of the particular case. Wesleyan has the sole discretion whether to address co-occurring conduct violations.

Wesleyan also has the discretion to require individuals who are granted amnesty from disciplinary sanctions for alcohol/drug violations to engage in substance use counseling or other appropriate services.

## **E. Reporting**

Individuals are always welcome to contact the Title IX Coordinator or other offices identified below to discuss general questions about the University's policies and processes for addressing discriminatory harassment and sexual misconduct.

When names and/or other information are shared as part of a Report, the Title IX Coordinator will conduct appropriate follow-up with the reporter and/or alleged victim in accordance with the process described in Grievance and Formal Complaint Procedures (section G) below.

All members of the Wesleyan community are strongly encouraged to report possible sexual misconduct.

- The [INCIDENT REPORTING FORM](#) is one of several ways for members of the University community to report any type of incident that is concerning, harmful, and/or contrary to the Wesleyan's Community Standards.
  - Please note that submissions using this form may not be reviewed outside of normal business hours. If there is an immediate risk to health or safety, please contact Wesleyan Public Safety at 860-685-3333 or dial 911.
  - *Also, the individual submitting may choose to remain anonymous; however, if the submission is anonymous there can be no follow-up by the university.*
- In addition to the above form, incidents can also be reported directly by contacting:
  - The Title IX Coordinator, Debbie Colucci: [dcolucci@wesleyan.edu](mailto:dcolucci@wesleyan.edu)
  - Deputy Title IX Coordinator, Trisha Stephenson Gordon: [pblount@wesleyan.edu](mailto:pblount@wesleyan.edu)
  - Public Safety: 860-685-2345

Additionally, staff in the following offices provide information and space for conversations and connecting:

- Office for Equity & Inclusion
- Student Affairs (Class Deans, ResLife Staff, WesWell, etc.)
- Resource Center
- Human Resources

### **A Report does not automatically trigger an investigation.**

As explained in Grievance and Formal Complaint Procedures (section G), opening an investigation requires submission of a Formal Complaint by the potential victim.

#### **1. Emergency Resources**

If the safety of any individual is an immediate concern, and/or if any individual needs emergency medical services, involved parties or observers can contact:

- Middletown Police Department: Emergency - 911 (9-911 from campus extension); Non-Emergency – 860-347-2541
- Wesleyan Office of Public Safety: Emergency - 860-685-3333 (3333 from campus extension)

#### **2. Federal and State Resources**

The U.S. Department of Education's Office for Civil Rights (OCR) is the entity responsible for enforcing Title IX. Inquiries can be made to:

Office for Civil Rights  
Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02129-3921  
617-289-0111  
[OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

The Connecticut Commission on Human Rights and Opportunities is the entity responsible for enforcing Connecticut's nondiscrimination laws. Inquiries can be made to:

Commission on Human Rights and Opportunities  
450 Columbus Boulevard, Suite 2  
Hartford, CT 06103-1835  
(800) 477-5737  
<https://portal.ct.gov/chro/commission/commission/contact-us>

## **F. Supportive and Confidential Resources**

There are Wesleyan confidential resources that students, faculty and staff can access to discuss and obtain support regarding sexual misconduct concerns or issues which do not result in a report to the Title IX Coordinator. Except for very limited (dangerous) circumstances, these resources will not share individual names/information with the Title IX Coordinator. Individuals always have the option to make a report to the Title IX Coordinator or another non-confidential resource at a later time.

For students, Confidential Resources include:

- CAPS Therapists: 860-685-2910
- Health Center Clinical Providers: 860-685-2470
- Office of Religious & Spiritual Life Chaplains: 860-685-2278
- Amanda Carrington: Associate Director WesWell/Health Education (Sexual Violence Prevention)  
[acarrington@wesleyan.edu](mailto:acarrington@wesleyan.edu)

For employees, Confidential Resources include:

- [Ombudsperson](#), Israela Brill-Cass: [iabrillcass@fixerr.com](mailto:iabrillcass@fixerr.com)
- [Employee Assistance Program](#)

The following external confidential resources are also available for students, faculty and staff:

- Women & Families Center: English – 888-999-5545/En Espanol: 888-568-8332
- New Horizons: English – 888-774-2900/En Espanol: 844-831-9200
- National Sexual Assault Hotline: 800-656-4673
- National Domestic Violence Hotline: 800-799-7233

## **G. Grievance and Formal Complaint Procedures**

This section describes, in general terms, **what happens after a report of Sexual Misconduct is made**. The steps taken after receipt of a report of sexual misconduct at Wesleyan, if the potential victim(s) is identified in the report.

### **1. Initial Contact and Supportive Measures.**

The Title IX Coordinator or designee will meet with the potential victim(s) in person or virtually to discuss details about the Report, including the name of the individual(s) who allegedly engaged in sexual misconduct.

The Title IX Coordinator or designee will discuss and implement Supportive Measures as appropriate in the particular circumstances, regardless of whether the potential victim decides to file a Formal Complaint.

The Title IX Coordinator or designee will provide information about the options available to the possible victim, which include:

- A decision not to file a Formal Complaint and thus not trigger an investigation.
- A decision to file a Formal Complaint either at the present time or at a later date.
- A decision to report to local law enforcement if the alleged misconduct is potentially criminal.

If the alleged misconduct does not appear to be covered by this Policy, the Title IX Coordinator will refer the (student) matter to Student Affairs and/or (employee) Human Resources for follow-up.

In accordance with Title IX regulations, an informal resolution process cannot be implemented unless a Formal Complaint has been filed.

### **2. Filing a Formal Complaint.** If the potential victim chooses to file a Formal Complaint, they must provide a written and signed statement (hard copy or electronic) to the Title IX Coordinator. ***Formal Complaints cannot be anonymous.*** The statement must provide information about the alleged misconduct, including:

- The names of individuals involved;
- Type of incident(s), and the dates, times and locations of incidents; and
- A request that the University investigate the allegation(s).

Once a Formal Complaint is filed, the potential victim is referred to as the Reporting Party and the alleged violator(s) is referred to as the Responding Party/parties

In rare cases the Title IX Coordinator may determine that the specific circumstances warrant pursuing a Formal Complaint even if the potential victim does not wish to proceed with a complaint (such as when the allegation involve someone previously been found responsible for sexual misconduct or there is a safety threat to the Wesleyan community). At this point, the Title IX Coordinator may file a Formal Complaint on behalf of the University (but does not become a party in the case). If the Title IX Coordinator files a Formal Complaint, the potential victim will receive advance notice as well as notices of activities at various points in the Grievance Procedure but is not a Party to the case.

### **3. Consolidation of Formal Complaints.**

The Title IX Coordinator may consolidate Formal Complaints where circumstances warrant, such as when a Reporting Party files a formal complaint against more than one Responding Party in regard to the same incident; when there are multiple complaints against one Responding Party; and/or when a

Responding Party also makes a Formal Complaint against the Reporting Party arising out of the same facts or circumstances.

The Title IX Coordinator also has the discretion to include investigation of conduct prohibited under other University policies with the alleged Title IX violations if they are substantively related to the Title IX misconduct. Should the Title IX matter(s) be subsequently withdrawn or dismissed, the University has the authority to process the alleged non-Title IX violations under the appropriate policy(ies).

#### **4. Dismissal of Formal Complaints.**

In accordance with the Title IX regulations, the Title IX Coordinator will dismiss a Formal Complaint and/or move forward with another University process when:

- the conduct alleged in the Formal Complaint does not constitute sexual misconduct as defined by Title IX regulations and this Policy (such allegations may be referred to an appropriate University office to be addressed under other applicable policies); or
- the conduct alleged did not occur within the scope of the University's jurisdiction; or
- the Formal Complaint was submitted by an individual outside the jurisdiction of the University as described in Section B above; (although allegations may be referred to an appropriate University office to be addressed under other applicable policies, at the discretion of the University).

In accordance with the Title IX regulations, the Title IX Coordinator may dismiss a Formal Complaint and/or move forward with another University process when:

- A Reporting Party withdraws the Formal Complaint and/or particular allegations within it;
- The Responding Party is no longer enrolled in, employed by or subject to University policy; or
- Specific circumstances prevent the University from gathering evidence sufficient to determine the Formal Complaint.

If a Formal Complaint is dismissed for any reason, the Title IX Coordinator will promptly and simultaneously send written notice to the Parties explaining the reasons. The Parties have the right to appeal dismissals in accordance with Section G.14 below.

#### **5. General Obligations of the University During Grievance Procedure**

The Grievance Procedure begins with the filing of a Formal Complaint. The Title IX Coordinator has general responsibility for implementing the procedure. During the Grievance Procedure, the University will:

- Treat both parties equitably.
- Presume a Responding Party is not responsible for violations until and unless such a determination is made following the process.
- Objectively evaluate all relevant information and evidence.
- Ensure that individuals involved in and responsible for implementing any part of the process have appropriate training and do not have conflicts of interest or bias.
- Follow prompt timelines for conclusion and provide reasons for delays.
- Provide all required notices of meetings.
- Provide opportunities for Parties to review and respond to relevant evidence, both favorable and unfavorable.

- Provide Parties with the opportunity to be accompanied to any meetings by an Advisor of their choice including a union representative for employees who are members of bargaining units at Wesleyan.
- Provide Parties with the opportunity to present witnesses and other relevant evidence.
- Not restrict the parties from speaking about the case for their own emotional support and to prepare their case.
- Assume the burden of gathering evidence (this is not a burden of the Parties).
- Comply with all applicable confidentiality and privacy laws and regulations during the Grievance Procedure.

**a. Deadlines and Extensions.** In general, as previously outlined, Wesleyan will attempt to complete the Grievance Procedure within **sixty (60) business days (as defined in section D.2k)** (as defined in section D.2k) **beginning with receipt of both statements.** However, there may be circumstances when the process will take longer due to the unavailability of individuals important to the process; difficulties in gathering evidence; and/or due to other reasonable considerations at the discretion of the Title IX Coordinator.

Parties may make requests for short extensions of deadlines imposed on them in the Grievance Procedure for good cause (bona fide illness, unavoidable absence of Advisor, etc.). Any such requests must be made to the Title IX Coordinator in writing and must explain the reason an extension is requested. The Title IX Coordinator has the discretion to request documentation if appropriate. The Title IX Coordinator shall treat requests from Parties for extensions equitably and shall notify all Parties of extensions that are granted or denied.

## 6. Notice to Parties

The Title IX Coordinator will meet with the Responding Party to provide verbal, followed by written notice, of the Formal Complaint and allegations of sexual misconduct potentially constituting violations under this policy. The written notice will include the following:

- Notice regarding the Grievance Procedure and availability of an informal resolution process if applicable.
- Sufficient details known at the time (including identities of the Parties, if known; the conduct alleged; and the date and location of alleged incident(s), with sufficient time to prepare before any initial interview (no less than five days).
- As required by the Title IX regulations, a statement that the Responding Party is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the Grievance Procedure.
- Notice that the Parties may have an Advisor of their choice, who may be an attorney; and information about that role.
- Notice of provisions in University policies and processes applicable to students, faculty or staff (as appropriate) that prohibit making false reports or providing materially false information in bad faith during the Grievance Procedure.
- Notice that the Parties may discuss the case. However, Parties should avoid statements that are defamatory; that disclose other conduct which could be viewed objectively as constituting intimidation or retaliation; or that could impair the integrity of the investigation or Grievance Procedure.

- Notice that the University, not any Party, has the burden of proof.
- Notice of the name of the Investigator, with sufficient time (no fewer than five days) to raise reasonable concerns of conflict of interest or bias, as well as the basis of those concerns, in writing to the Title IX Coordinator.
- Notice that the Parties may raise reasonable concerns regarding the Title IX Coordinator or other participants in the Grievance Procedure to the Title IX Coordinator or designee.

If additional allegations become known during the Grievance Procedure, the original notice to the Parties will be supplemented. Misconduct later discovered but not covered by this policy may be addressed pursuant to other applicable University policies.

Upon notice to the Parties, the Title IX Coordinator will discuss and implement Supportive Measures as appropriate to the Responding Party (such opportunity having been provided to the potential victim following the initial report or Formal Complaint).

#### **a. Responding Party’s Statement**

The Responding Party is expected to provide a written statement to the Title IX Coordinator within **five business days** (as defined in section D.2k) of receiving written notice of the Formal Complaint. The statement should provide their initial response to the allegations in the Formal Complaint. The Responding Party’s statement will be shared with the Investigator, together with the Formal Complaint itself. If the Responding Party chooses not to provide a statement and/or participate, the process may move forward without that information.

### **7. Administrative Leave**

The Title IX Coordinator, in consultation with others in University leadership, may separate a Responding Party from the University at any point after a Formal Complaint is filed if there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety arising from the allegations.

In such situations, the Responding Party will be provided notice of the emergency leave and will have the opportunity to challenge the decision following; this is an opportunity to be heard regarding the leave, not a determination of responsibility for the allegation(s). The Responding Party has the burden of demonstrating why the separation is unreasonable.

A decision to place a student or employee on leave shall be made in compliance with any applicable disability laws, including the federal IDEA (Individuals with Disabilities Education Act), Section 504 of the Rehabilitation Act, the ADA (Americans with Disabilities Act) and state laws.

### **8. Informal Resolution Options**

After a Formal Complaint has been filed and if the Title IX Coordinator determines the circumstances are appropriate, the Title IX Coordinator may offer the parties the opportunity to participation in an

informal resolution process to resolve the complaint without completing the investigation and determination process

- Either Party may request to engage in an informal resolution process in writing to the Title IX Coordinator; and all Parties must voluntarily agree to participate in an informal resolution process within five business days (as defined in section D.2k) of notice of the request.
- The Title IX Coordinator or designee will serve as a facilitator to assist in the informal resolution process. Any Party can withdraw from the process at any time. The Title IX Coordinator may also end an informal resolution process if it is determined that the process is unproductive or damaging to one or more of the Parties.
- Informal resolutions may be proposed by either party and can take many forms, depending on the particular circumstances of the case. Examples include but are not limited to facilitated discussions or statements exchanged between the Parties; restorative justice; acknowledgment of responsibility by a Responding Party; apologies; agreed upon sanctions or requirements in engage in specific services by the Responding Party; Supportive Measures; or other remedies.

The informal resolution process is not intended to unduly delay the Grievance Procedure. If the informal resolution process has not produced an agreement within ten business days (as defined in section D.2k) of the agreement to participate the Title IX Coordinator will decide whether the process is still productive or should be discontinued.

If an informal resolution process does not resolve the Formal Complaint, nothing from the informal resolution process may be considered as evidence in the Grievance Procedure, and an informal resolution facilitator cannot be interviewed as a witness.

Any terms in an informal resolution that include participation of the University must be approved by the Title IX Coordinator, in consultation with other University administrators as appropriate. If an informal resolution agreement is reached, it must be signed by the Parties and the University; once signed, the agreement is final and binding according to its terms.

Informal resolutions may take many forms, depending on the particular circumstances of the case. Examples include but are not limited to facilitated discussions or statements exchanged between the Parties; restorative justice; acknowledgment of responsibility by a Responding Party; apologies; agreed upon sanctions or requirements in engage in specific services by the Responding Party; Supportive Measures; or other remedies.

***In accordance with the federal Title IX regulations, informal resolutions cannot be used when the Reporting Party is a student, and the Responding Party is an employee.***

**Voluntary Agreement to Policy Violation:** Additionally, a Responding Party may voluntarily agree in writing to the alleged violation(s) of the Sexual Misconduct Policy and accept a sanction as proposed by the Dean of Students Office.

## **9. Investigation Process**

### **a. Designation of Investigator(s)**



The Title IX Coordinator will designate one or more investigators to conduct a prompt, fair and impartial investigation of the Formal Complaint. Investigators for student cases will be selected from a group of qualified and trained individuals employed by or engaged by the University for this purpose. A team of two investigators from the Office for Equity & Inclusion and Human Resources will be used for employee cases.

If a written claim of conflict of interest or bias is raised by a Party within five business days (as defined in section D.2k) of the written notice of the identity of the Investigator, the Title IX Coordinator will review the matter, in consultation with other University administrators as appropriate, and decide whether to retain the Investigator or to designate another individual(s) to investigate the complaint. The Title IX Coordinator's decision is final.

#### **b. Advisors**

In accordance with both Wesleyan policy and federal regulations, each party may; but is not required to have an advisor of their choice present for support and advice during the formal process; this includes representation by a union representative for employees who are members of a bargaining unit at Wesleyan. Advisors may be, but are not required to be, attorneys.

- The role of the advisor is to provide support.
- The advisor may attend meetings, document review documents, and participate in any other part of the process based upon the wants and needs of the party as they navigate this process.
- The advisor's role is not to make decisions for, speak for, or communicate on behalf of the party.

If a party wishes to; but does not have one, Wesleyan will, without fee or charge to the party, provide advisor options; and/or connect them to someone who understands the process and will accompany them as appropriate.

Any person serving as an Advisor is prohibited from publicly disclosing information learned during the Title IX process, including information protected under the Family Educational Rights and Privacy Act (FERPA), or other state or federal laws. Advisors who wish to disclose information while investigators are collecting evidence and/or preparing for final determination are expected to consult with the Title IX Coordinator in advance to ensure that confidentiality requirements are met.

#### **c. Investigator and Title IX Coordinator Responsibilities During Investigation**

1. The Investigator(s) will:

- Meet with and interview the Parties after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare (generally at least three business days (as defined in section D.2k), unless the Party agrees to waive the three-day window). The Investigator has the discretion to conduct follow-up interviews with Parties as necessary.
- Allow Parties to have their Advisor at all interviews/meetings and allow their participation, except that Advisors cannot act or speak for the Party.
- Allow Parties to identify Witnesses. The Parties are expected to submit the names of Witnesses in writing to the Investigator, explaining the information the Witnesses have that is

relevant to the allegations in the Formal Complaint. Parties are expected to submit the names of Witnesses promptly, and in all cases, prior to the Investigator closing the investigative file.

The Investigator(s) retains the discretion to determine whether suggested Witnesses have information relevant and directly related to the Formal Complaint. “Character witnesses” for a Party who do not have information relevant and directly related to the allegations in the Formal Complaint will not be interviewed. The Investigator may also interview Witnesses not suggested by the Parties who may have information relevant to the allegations in the Formal Complaint.

The Investigator(s) can conduct follow-up interviews with Witnesses, as needed.

- Prepare written summaries of all interviews.
- Allow Parties to identify favorable and unfavorable evidence. The Parties are expected to submit a written explanation about why they believe the evidence is relevant. Parties must submit evidence promptly to the Investigator, and all cases, before the investigative file closes.

The Investigator retains the discretion to determine whether suggested evidence is relevant and directly related to the allegations in the Formal Complaint. The Investigator may also gather evidence not suggested by the Parties which is relevant to the allegations in the Formal Complaint.

- Perform other investigative activities that will assist in ascertaining facts (site visits, review of documents, etc.).
- Prior to completing an investigation report, assemble the investigative file. The investigative file shall include all evidence that is directly related to the allegations in the Formal Complaint, whether the Investigator intends to rely upon it or not in the investigation report, as well as evidence favorable and unfavorable to the Parties. The investigative file shall be submitted to the Title IX Coordinator.

2. The Title IX Coordinator will:

- Provide the Parties and their Advisors with an equal and secure opportunity to inspect and review the investigative file provided by the Investigator. Parties will be provided 10 business days (as defined in section D.2k) from the day they read the report to submit a written response to the information to the Investigator.

3. The Investigator(s) will:

- Consider the Parties’ written responses prior to completing the investigation report. The Investigator may gather additional information and/or make changes to the investigative file at their sole discretion - if changes are relevant and needed to make the record factually more accurate and/or complete. (If the investigative file is changed, the Parties will have five business days (as defined in section D.2k) from the day they review the changes to submit a written response to the Investigator. ***At this point, the investigative file is closed.***

- Create a Final Investigation Report that fairly summarizes relevant evidence; a separate section that points out relevant consistencies and inconsistencies (if any) between sources of information; and an optional section describing the Investigator’s assessment of the credibility of the Parties and Witnesses regarding the Investigator’s interactions with them.
    - In student cases, the report will not include any determination as to whether the Responding Party is responsible for violating this policy; such determination will be made by the Determination Panel.
    - In employee cases, the report will include a determination as to whether the Responding Party is responsible for violating this policy; the Vice President for the Responding Party’s division will receive the report and make decisions regarding appropriate action.
  - All information (the evidence file, investigation file and all Party responses to the report) will become the Final Investigation Report submitted to the Title IX Coordinator.
4. The Title IX Coordinator will review the report to ensure:
- Questions and evidence about sexual predisposition or prior sexual conduct are generally not relevant, unless such questions and evidence about the prior sexual conduct are offered to prove that someone other than the Responding Party committed the alleged conduct, or if the questions and evidence concern specific incidents of the Reporting Party’s prior sexual conduct that are offered solely to prove consent.
  - Information protected under a legally recognized privilege (such as between a Party and their physician, psychologist or other professional acting in a treatment capacity, or privileged communications between a Party and their attorney) are not admissible unless the individual holding the privilege has waived the privilege in writing.
  - Relevance as used in the Grievance Procedure, “relevant” refers to a Witness, fact, or other piece of information that a reasonable person could conclude makes a material disputed fact or event more or less likely to be true.

### **Differing Processes for Students and Employees**

Procedures for the investigation and resolution of complaints are specific for students, faculty, and staff.

- Each process provides an equitable and timely process for both complainants and respondents and aligns with their role within the community.
- The specific procedure follows the responding party.
  - If the responding party is a student (undergraduate or graduate\*) the process follows the student procedures.
  - If the responding party is an employee (faculty and/or staff), the process follows employee procedures.

### **The following applies only to student cases**

The Title IX Coordinator will securely provide the Final Investigation Report to the Parties and Advisors at least 10 business days (as defined in section D.2k) prior to the scheduled Determination Panel meeting, for their review and written responses.

*The Parties and Advisors must acknowledge that they will not further disseminate the investigation report to any person but may use it to prepare responses.*

Written responses (not to exceed 10 pages) must be provided to the Title IX Coordinator within five business days (as defined in section D.2k).

In consultation with other University administrators, the Title IX Coordinator will evaluate any claim of procedural error and remedy any error as appropriate. If any changes in the investigation report result from such a review, the Parties will have the opportunity to respond in writing to any changes in the investigation report within five business days (as defined in section D.2k).

The Assistant Dean of Students/Director of Community Standards will select a Determination Panel and facilitator and notify the Parties and Advisors of their identities; the Parties then have five business days (as defined in section D.2k) to notify the Title IX Coordinator in writing if they believe there is any has a conflict of interest or bias with this panel. The Title IX Coordinator will consider the claim and decide in consultation with other University administrators whether to make any changes; the Title IX Coordinator's decision is final.

The Final Investigation Report is provided to the Determination Panel for their review prior to their discussion and decision-making.

The University will not conduct a hearing.

The Determination Panel will consider all information and evidence presented in the Final Investigative Report to make determinations of responsibility, and impose remedies, including, if warranted, disciplinary sanctions. The panel may request to speak with the investigator for clarification.

The Determination Panel may consult with Assistant Dean of Students/Director of Community Standards and/or appropriate University administrators regarding possible remedies and sanctions to ensure reasonable consistency with any similar past cases.

The Determination Panel will issue the Assistant Dean of Students/Director of Community Standards written determination, including the following elements:

- Identification of all allegations potentially constituting sexual misconduct as defined in the Title IX regulations and this policy.
- A description of the procedural steps taken from receipt of the Formal Complaint through determination, including investigative steps taken and hearings held.
- Findings of fact supporting the determination of responsibility or non-responsibility for each allegation.
- A statement of, and rationale for, the determination as to each allegation and any disciplinary sanction to be imposed.

- A statement as to whether remedies to restore or preserve equal access to the University's education programs and activities will be provided to the Reporting Party (the specific remedies provided shall not be identified in the notice of decision).
- The University's procedure and permissible bases for the Parties to appeal the determination.

The written determination will be provided to the Parties simultaneously. The determination concerning responsibility becomes final either on the date that the University provides the Parties with the written notice of decision on any appeal filed, or if an appeal is not filed, on the date when the appeal period expires.

**The following applies only to faculty/staff/non-student employee cases**

Unlike the student process, there is no Deliberation Panel for employee cases.

The Final Investigative Report is completed by the team of two investigators: one each from the Offices of Equity & Inclusion and Human Resources; and provided to the AVP for Equity & Inclusion / Title IX Coordinator for review. This report becomes a Concluding Document and includes a conclusion about policy violation by the Responding Party and any recommendations by the team.

The Concluding Document is sent to two individuals, the Vice President with oversight for the Responding Party and the Vice President for Equity & Inclusion. The document is sent with the following message for instruction:

Having investigated a possible violation of Wesleyan Policy under Title VII and/or Title IX, please find the attached concluding document related to the complaint brought forward by (individual) regarding the actions of (individual).

VP (name of VP for the Responding Party), ultimately decisions related to next steps and final action rest with you and your team.

We (investigators and AVP for Equity & Inclusion / Title IX Coordinator) believe this investigation to be thorough and are available for further discussion of the situation if desired. The interview notes are not provided; however, the complete file is available for review upon request. Additionally, if you do not agree that a thorough investigation was conducted, you may request additional information from us and/or further investigation.

With that, if you agree that a thorough investigation was conducted and the facts provided support the conclusion, please collaborate and consult with whomever you choose regarding the outcome; including but not limited to the Vice President for OEI for an Equity & Inclusion lens independent from those previously involved, the AVP for Human Resources for an HR lens and/or the supervisor/ the manager of the area,

Once the Vice President makes decisions related to next steps and final action; the outcome is communicated with both parties.

**The following again applies to ALL cases**

**10. Preponderance of Evidence Standard**

The Determination Officer (student) and Investigators (employees) will use a preponderance of the evidence standard to determine if a Responding Party is responsible for violating this policy.

Preponderance of the evidence means it is more likely than not that the reported incident and/or conduct violated University policy. The preponderance of the evidence standard is not the standard used for criminal responsibility in most jurisdictions, and a determination of responsibility under this Policy does not equate with a finding of a violation of criminal laws. Conversely, lack of a criminal prosecution, dismissal or lack of a criminal conviction does not necessarily mean that this Policy was not violated because criminal cases require a significantly higher standard of proof for determination violations.

## **11. Remedies, Supportive Measures and Sanctions**

### **a. Remedies and Supportive Measures**

As used in this Policy, “remedies” are measures taken to ensure that the Reporting Party has equal access to Wesleyan’s education programs and activities following a Determination Officer’s decision. Such remedies may include Supportive Measures which are either the same or may be different than those implemented earlier in the case.

### **b. Sanctions**

Sanctions and actions for Responding Parties found responsible for violating this policy can take many forms, both disciplinary and educational. The following are examples of the types of sanctions that may be imposed. Consideration of appropriate sanctions in a particular case will include review of the nature and circumstances of the specific misconduct; the impact of the misconduct on the Reporting Party and/or others in the University community; the disciplinary history of the Responding Party; any other mitigating or aggravating circumstances; and the types of sanctions imposed in other similar cases (if any).

- Warning.
- Reprimand.
- Probation.
- Suspension.
- Expulsion.
- Termination of employment or volunteer activity
- Restrictions or loss of privilege to participate in programs and/or activities.
- Loss of privileges. Loss of leadership opportunities and/or positions.
- Housing restrictions.
- Requirement to participate in services like counseling.
- Restrictions on accessing University property, facilities, programs or events.

## **12. Appeals of Determination Decisions or Dismissal of Formal Complaints**

In limited circumstances, parties can appeal a determination about responsibility and sanctions. Parties also may appeal the decision to dismiss a Formal Complaint under certain circumstances.

Appeals are allowed based upon the following:

- Procedural errors that materially prejudiced the outcome.
- New evidence that was not reasonably available at the time of the determination or dismissal was made that could affect the outcome.
- The Title IX Coordinator wrongfully concluded that the Formal Complaint did not constitute sexual misconduct under this Policy and dismissed it.
- The Title IX Coordinator, Investigator or Determination Officer has a conflict of interest or bias

for or against Reporting Partys or Responding Partys generally, or an individual Reporting Party or Responding Party, that materially affected the outcome.

- A sanction imposed was improper due to mitigating or aggravating circumstances not known at the time of the decision.

An appeal must be filed in writing, in hard copy or electronically, with the Title IX Coordinator within five business days (as defined in section D.2k) of receipt of the notice of determination or dismissal. The appeal must align with the above and state the specific and detailed reason(s) for the appeal, including any relevant documentation in support of the appeal.

Appeals must be received before the expiration of the appeal period provided in the notice of outcome, unless granted an extension for good cause by the Title IX Coordinator. Appeals submitted after this deadline are not timely and will not be considered.

The following process will be implemented after a timely appeal is filed:

- The Title IX Coordinator will provide a copy of the appeal to the other Party(ies), who shall have three business days (as defined in section D.2k) to provide a written response in hard copy or electronically, to the Title IX Coordinator. Any response received will be provided to the other Party(ies).
- The Title IX Coordinator will forward the appeal to the appropriate Appellate Officer:
  - STUDENTS: Vice President for Student Affairs or their designee
  - STAFF: Senior Vice President, Chief Administrative Officer / Treasurer or their designee
  - FACULTY: Associate Provost for Budget and Personnel or their designee
- The name of the Appellate Officer will be provided to the Parties, who shall have three business days (as defined in section D.2k) to notify the Title IX Coordinator in writing, in hard copy or electronically, if they believe the Appellate Officer has a conflict of interest and the grounds for this belief. The Title IX Coordinator will consider the matter in consultation with appropriate University administrators and decide whether the Appellate Officer should continue or another Appellate Officer should be selected.
- The Appellate Officer will conduct an impartial review of the appeal, including consideration of the record in the matter, and may consult with other University administrators in making their decision. The Appellate Office may:
  - Deny the appeal;
  - Grant the appeal and send the matter back to the investigator(s) and/or decision-maker(s) for further consideration;
  - Grant the appeal by revising a sanction(s); or
  - Grant the appeal of a dismissal of a Formal Complaint and order that an investigation be conducted.
- The Appellate Officer will issue a written decision describing the result of the appeal and rationale for the result and provide it simultaneously to the Parties; this decision is final and binding in all cases.

### **13. Records**

Records in connection with sexual misconduct reports, Formal Complaints and proceedings (and any other materials that may be required to be retained by the Title IX regulations) will be maintained for a

minimum of seven years from resolution of the incident, or six years from date of last attendance or employment at Wesleyan by any Party, whichever is later.

The Title IX Coordinator has overall responsibility for the required retention of records.