

Title IX: Informal Resolution Facilitator

**2026-2027
Summer 2026**



**WRIGHT STATE
UNIVERSITY**

Aspirational Agenda

- Title IX Process
- Bias and Impartiality
- Informal Resolution Process
- Goals and Desirable Outcomes
- Possible Outcomes
- Facilitation



Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subject to discrimination under any educational program or activity receiving federal financial assistance.”

-Title IX of the Education Amendments of 1972

- Signed in 1972
- Part of United States Code (U.S.C.) and the Code of Federal Regulations (C.F.R.)
 - 20 U.S.C. §1681
 - 34 C.F.R. §160
- Wright State policy 1270
 - Sex/Gender-Based Discrimination, Harassment, and Sexual Misconduct

Federal Title IX Oversight

- **Historically:** Office of Civil Rights (OCR) within the Department of Education (ED)
- **Currently:** OCR of Department of Justice (DOJ) and/or Health and Human Services (HHS)
 - Recent cases in Maine and Minnesota have been determined by HHS and resulted in consistent oversight of the school systems

Impacting our Policy

Title IX of 1972

34 CFR §106

Title IX defines sexual harassment and outlines the grievance process for complaints

Clery Act of 1990

34 CFR §668

Clery defines sexual assault including rape, fondling, statutory rape, incest

VAWA of 1994

34 CFR §668.46

VAWA defines dating violence, domestic violence, and sex-based stalking

Changes Over Time



THE CLERY ACT & TITLE IX

1972

Title IX, a federal civil rights law prohibiting sex discrimination in educational programs, is signed into law.

1986

Jeanne Clery was raped and murdered in her college residence and the Clery family begins to advocate for transparency and accountability related to campus crimes.

1990

The Crime Awareness and Campus Security Act, later renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, was signed into law, requiring colleges and universities to record campus crime statistics and safety policies.

1992

Amendments are made to the Clery Act to implement policies and procedures to protect the rights of sexual assault survivors.

2011

The Office of Civil rights issues a "Dear Colleague Letter" with guidance on what measures institutions should take to address sexual harassment.

2013

The Clery Act was expanded to include all incidents of sexual violence, sexual assault, domestic violence, dating violence and stalking.

2020

Updated Title IX regulations came into effect, resulting in significant changes to how institutions must define and respond to sexual harassment.

2022

Celebrating the 50th anniversary of Title IX!

Covered Within WSU Policy

- Sex/Gender-Based Harassment, Discrimination, and Sexual Misconduct policy (WSU 1270)
 - Program equity (ie sports)
 - Pregnant & parenting related conditions
 - Transgender inequality
 - Sexual harassment:
 - Conduct on the basis of sex that is unwelcome and determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity. (1270.4(6))

Scope of Title IX at Wright State

What?

- Rape
- Sodomy
- Sexual Assault with an Object
- Fondling
- Incest
- Statutory Rape
- Dating Violence
- Domestic Violence
- Sex-based Stalking
- Quid Pro Quo Sexual Harassment
- Unwelcome Sexual Conduct

Who?

- Members of the university community
- Faculty
- Staff
- Registered students
- Student organizations
- Vendors
- Volunteers
- Visitors on and off campus
- *Covers behavior on and off campus

Title IX at Wright State

- Sex/~~Gender~~-Based Harassment, Discrimination, and Sexual Misconduct policy (WSU 1270)
- Prohibited Behaviors:
 - Sexual Assault: rape, statutory rape, incest, assault with an object, fondling, sodomy
 - Dating Violence
 - Domestic Violence: felony or misdemeanor crime of violence
 - Sex-Based Stalking
 - Quid Pro Quo Sexual Harassment
 - Unwelcome Conduct Sexual Harassment
 - Sexual Misconduct

Wright State's Non-Discrimination Policy

(1280)

Prohibits discrimination based on protected traits including:

- Race
- Color
- Religion
- Gender
- Gender identity or expression
- National origin
- Military status
- Disability
- Age (40 years or older)
- Status as a parent (pregnancy and after birth)
- Status as a parent of a young child
- Status as a nursing mother
- Status as a foster parent
- Genetic information
- Sexual orientation

Definitions: Sexual Assault

- **Rape-** carnal knowledge
- **Sodomy-** oral or anal sexual intercourse
- **Sexual Assault with an Object-** unlawful penetration
- **Fondling-** touching for the purpose of sexual gratification
- **Incest-** sexual intercourse between relation
- **Statutory Rape-** sexual intercourse with anyone under 16 years old

Definitions: Dating Violence

- Conduct on the basis of sex that consists of violence committed by a person who is or has been in a romantic or intimate relationship with the complainant.
 - Intimate/romantic relationship =
 - length of relationship
 - Type of relationship
 - Frequency of interactions between individuals

Definitions: Domestic Violence

- Conduct on the basis of sex that consists of a felony or misdemeanor crime of violence by
 - Current/former spouse or intimate partner
 - Person with whom the victim shares a common child
 - Person cohabitating (or former) of the victim as a spouse or intimate partner
 - Person similarly situated to spouse of victim y domestic/family violence laws of the jurisdiction
 - Any other person against an adult or youth victim who is protected from that person's acts under domestic/family violence laws

Definitions: Sex-Based Stalking

- Conduct on the basis of sex that consists of engaging in a course of conduct directed at a specific person to cause reasonable: (A) fear for safety; (B) suffer emotional distress
 - Two or more acts: direct or indirect action, method, device, or means to follow, monitor, observe, surveil, threaten, or communicate to or about, or interferes with a person's property

Sex-Based Stalking (Continued)

- Reasonable Person: reasonable under similar circumstances with identities similar to the victim
- Substantial Emotional Distress: significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling



Definitions: Quid Pro Quo Sexual Harassment

- Conduct on the basis of sex when a university employee, vendor, or volunteer conditions the provision, aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Includes but not limited to:
 - Unwelcome sexual advances
 - Requests for sexual favors
 - Other verbal/physical conduct of a sexual nature by a person with authority over others

Definitions: Retaliation

- None, including the university, may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with rights or privileges secured by Title IX or this policy because of a report or complaint
- Reports of retaliation will be addressed in accordance with policies regarding retaliation.

Scope (1 of 2)

- Operations of the University
- Locations, events, or circumstances over which the University substantial control over both the respondent and the prohibited behaviors
- Buildings that are owned or controlled by recognized student organizations

Scope (2 of 2)

Conduct must have occurred:

- Against a person in the United States
- Within WSU's education program or activity
- Complainant must be participating in, or attempting to participate in, education program or activity at the time the formal complaint is filed

WSU Grievance Process

Harmed Party- Complainant
Alleged Perpetrator- Respondent

Complainant has the opportunity to meet with the Title IX Coordinator, discusses

- **Supportive/Modifying Measures**- no further action requested or available from University
- **Informal Resolution**- does not require an investigation, may not be part of educational record
- **Formal Resolution**- requires an investigation, likely to be part of educational record

Wright State University Title IX and Sexual Misconduct Decision Tree



Being Impartial and Avoiding Bias, Conflict of Interest, and Prejudgment of Facts



Confidentiality

- 106.71 requires that our process and volunteers keep party and witness identities confidential except as permitted by law or FERPA, and as needed to conduct an investigation or hearing (30316)
- Prevents anyone in addition to the advisor to attend the hearing with the party, unless otherwise required by law (30339)

Impartiality

- Bias
- Avoiding prejudgment of fact
- Using information free from reliance on sex stereotypes
- Conflicts of interest
- Fair and Impartial
- Keep an open mind

Bias: Concerns Raised in preamble

- Are all paid staff members biased in favor of the institution that employs them?
- Was an institutional history of covering up issues enough for bias?
- Were past tweets or public comments that appear to support complainants or respondents sufficient to show bias?
- Is identifying as a feminist enough to show bias?
- Should bias extend to “perceived bias” or did it require actual bias?

Bas: Response of Department of Ed.

- Department declined to determine whether bias has to be actual or if perceived is sufficient to create an issue.
- Each specific bias issue requires fact finding analysis

(30252)

Bias: How WSU Minimizes Bias

No single-investigator model

- Decision-makers cannot be the same person who served as Title IX Coordinator or Investigator (330367)
- Prevents the decision-maker from improperly gleaning information from the investigation that isn't relevant that an investigator might be aware of from gathering evidence (30370)
- The institution may consider external or internal investigator or decision-maker (30370)

Bias: Objective Rules and Discretion

- WSU has objective rules for determining when an adjudicator (or Title IX Coordinator, Investigator, or Informal Resolution Facilitator) is biased, and the Department of Education allows university's to maintain discretion. (30250)
- WSU has the discretion to have a process to raise bias during the investigation.
- Bias is a basis for appeal of decision-maker's determination (34 C.F.R. 106.45(b)(8)(i)(C))

Being Impartial

A party should not be “unfairly judged due to inability to recount each specific detail of an incident *in sequence*, whether such inability is due to

- trauma,
- the effects of alcohol or drugs,
- or simple fallibility of human memory.” (30323)

Avoiding Prejudgment of Facts

- Examine evidence and your part in the Title IX process
- Take notes
- Focus on the policy and alleged violations
- Respondent is **presumed not responsible until such time as the respondent is found responsible** (WSU 1270.1)

Free of Sex Stereotypes

Avoid stereotypes based on sex:

- “such that even if a cross-examination question impermissibly relies on **bias or sex stereotypes** while attempting to challenge a party’s plausibility, credibility, reliability, or consistency,
- **It is the trained decision-maker**, not the party’s advisor asking a question **who determines whether the question is relevant**, then evaluates the question and any resulting testimony in order to reach a determination on responsibility” (30325)

Examples of Sex-Stereotypes

Decision-makers *must* not rely on sex stereotypes such as:

- Women have regret sex and lie about sexual assaults
- Men are sexually aggressive or likely to perpetrate sexual assault
- Consideration of marginalized groups: people with disabilities, people of color, people who identify in the “LGBTQ” community (30259-30260)

All volunteers should be aware to avoid sex stereotypes when serving in the Title IX process.

Avoid Rape Myths

“Beliefs about rape that serve to deny, downplay or justify sexually aggressive behavior that men commit against women” which “can be descriptive, reflecting how people believe instances of sexual assault should react” (30325)

- Myths about dress, consumption of alcohol, or previous relationships
- Belief that women make false accusations of rape
- Belief that “genuine assault” would be reported to authorities immediately
- Belief that a victim would “fight back”

Conflict of Interest: Concerns from Preamble

- Similar to Bias:
 - Does a decision-maker's financial ties to the institution create conflict?
 - Would the Title IX Coordinator directly supervise the decision-maker?
 - Does past advocacy for a survivor's or respondent's rights group create conflict?
 - Are perceived conflicts sufficient or do the conflicts have to be actual?

Preamble Discussion: Conflict of Interest

(1 of 2)

- No *per se* prohibited conflicts of interest from using employees and administrative staff, including supervisory hierarchies (30352)
 - However, we will not permit the Title IX Coordinator to directly supervise a decision-maker
- No *per se* conflict of interest or bias for professional experiences of affiliations of decision-makers and other roles in the grievance process (30353)

Preamble Discussion: Conflict of Interest

(2 of 2)

The preamble discussion:

- Provides as an example that it is not a *per se* bias or conflict of interest to hire professionals with histories of working in the field of sexual violence (30252)
- Cautions against using generalizations to identify bias and conflict of interest and instead recommends using a reasonable-person test to determine whether bias exists

Discussion Regarding Training's Role

“[T]he very training required by 106.45(b)(1)(iii) [**that you are sitting in right now**] is intended to

- Provide Title IX personnel with the tools needed to serve impartially and without bias
- Such that the prior professional experience of a person whom [WSU] would like to have in a Title IX role
- Need not disqualify the person from obtaining the requisite training to serve impartially (30252)

Examples in Discussion for Unreasonable Conclusion that Bias Exists: Review of Outcomes

- Department also cautioned parties and institutions from concluding bias or possible bias “based solely on the outcomes of grievance processes decided under the final regulations” (30252)
- Explained this means the “mere fact that a certain number of outcomes result in determinations of responsibility, or non-responsibility, does not necessarily indicate bias” (30252)

Informal Resolution Process

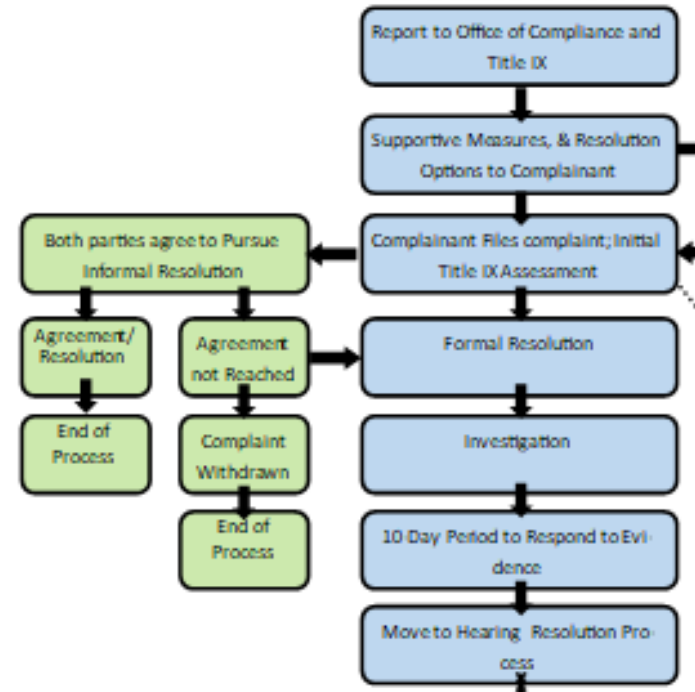


Definition: Informal Resolution

Process by which parties agree to enter to reach agreed upon outcome of complaint, facilitated by a mediator.

Not a formal process.

CANNOT occur between student/employee.



Informal Resolution

Help parties find ways to move forward at your institution (as long as they are at the institution); with equal access to educational opportunities

- *Feels* informal, but we are not “winging” it.

Best Alternative to a Negotiated Agreement (BATNA)

Best Alternative to a Negotiated Agreement

- Parties end up “better through an agreement than they could otherwise”
- “walk away” alternatives, both parties agree before leaving the facilitation
 - Be realistic not “dream alternative”
 - If agreement cannot be reached, process returns to formal procedure; decision for formal procedure can be reached at any time by either party or facilitator

Return to Formal

- Optional if:
 - Parties request
 - Facilitator feels negotiation is not moving forward
- Required if:
 - Parties cannot reach agreement

Facilitator Biases

Implicit Bias

- Unconscious
- Form of bias that happens automatically/unintentionally
- Judgements based on prejudice and assumptions, not facts

Explicit Bias

- Conscious and intentional
- Attitudes, beliefs, thoughts, or behaviors we have about an individual or group on a conscious level
- Hate speech, discrimination, unfair treatment

REMINDER

We do not aim to determine whether or not respondent is responsible, but rather to help parties reach a resolution to move forward from an incident.

Informal Resolution Preparation

- Read any documents related to the incident.
- Individual meetings with parties
 - Determines their goals and candidacy for informal procedure
- Facilitate resolution between parties
- Write and sign agreement at the end of the facilitation

Documents related to Procedure

- Incident reports
- Intake meeting notes
- Police reports
- Signed formal complaint
- Notice of Investigation and Allegation
- Informal Resolution Consent form



*May also
include FERPA
release forms*

Individual Meetings with Parties

- Gauge each party's willingness to proceed
- Identify desired outcomes from each party
 - Ensure each party is aware of realistic outcomes
 - Alert parties of University control: outcomes that the University can facilitate or monitor (ie. educational paper vs. not contacting someone at their off-campus job)
- Remind parties that aim is to move process forward with equal access to educational opportunities

Pre-Meeting Document

- Checklist of items to discuss with each party
- Optional methods for facilitation
 - Discussion: in-person or virtually
 - Written facilitation: facilitated back and forth between the parties
 - Combination: written statements shared in person and discussed during mediation
- Description of university controlled outcomes

Facilitation Guidelines

- Share “Ground Rules/Decorum” document with parties prior to facilitation
- Identify private, quiet space to facilitate
 - Preferably with restrooms close by for each party to use separate from one another
- Ensure enough time to facilitate a discussion and ask parties if there is a hard stop to facilitation
- Have tissues and water on hand

Facilitation

- Remind parties of ground rules, informal resolution is voluntary for the parties, and goal is to reach an outcome that is agreed upon (agreeable) to both parties
 - If agreement cannot be reached, case will be referred to formal hearing procedure
- Share that facilitator is there to ensure the parties are heard and that the outcome is agreed upon, not to take sides

Facilitation Continued

- If the parties are amenable, share a brief description of the initial complaint and ask if the complainant to share how they have been impacted
- Ask if respondent wants to share how they have been impacted by the incident and/or response to the complainant's statement

Facilitation: Helpful Tips

- There is no script for facilitation
- Remember that facilitator is there to help parties reach agreed upon outcome, within the University's control
 - Back and forth discussion from the parties with breaks taken when needed has been a good method for helping parties understand each other's prospective and reach an outcome
- Once agreement is reached, there is no appeal or opportunity to rehear case- make sure the parties (and facilitator) actually agree!

Facilitation: Helpful Tips (continued)

- Emotions run high, give the parties (and yourself) plenty of breaks when needed
- Restating a party's words back to them can be helpful to ensure both parties understand (ie "am I understanding correctly that you____")
- Focus on the outcome of the facilitation and helping the parties move forward, rather than looking back at the incident itself
 - However, the impact of the incident can be helpful to reflect upon

Advisors

- Advisors are welcome to join the informal resolution, but are not permitted to speak
 - Apart from asking questions
- If an advisor is disruptive to the informal resolution process, the process should be paused and advisor reminded of their role
- If advisor is not compliant, process should be referred to formal procedure

Writing Agreement

- Facilitator writes the agreement document based on what the parties have determined and what the University can control
- Facilitator asks each party to sign prior to leaving the facilitation
- Share copies with each facilitator and with the Title IX Coordinator for documentation

Possible Outcomes

- Educational training
- Reflection paper
- No Contact Order
- Move of rooms
- Change of classes

Impossible Outcomes

- Suspension
- Expulsion
- Loss of Privilege
- Any off-campus jurisdiction

Concluding Resolution

- Once resolution is signed, the case has concluded.
- Parties cannot appeal the outcome of informal resolution.
- Case cannot be reheard after informal resolution is agreed upon.
 - An additional case may be heard if there are additional incidents which occur between the same parties.

Review Documents

Documents shared in calendar invitation. Please see the following:

- Consent for Informal Resolution
- Informal Resolution Discussion Document
- Informal Resolution Scheduling Notice
- Ground Rules and Rules of Decorum
- IR Agreement Template

Case Study

Complainant: Charlie

Respondent: Rich

Narrative: Charlie and Rich were in a consensually sexual relationship for a two months. One day, Charlie was not feeling well and told Rich that sex was not an option. Rich told Charlie that without sex, their relationship was over. Charlie felt pressured to having sex with Rich that evening, texted him the next morning that she was upset, and broke up with him a few days later.

Case Study Questions

Charlie (complainant) Wants

- Rich removed from campus
- To ensure that Rich cannot access any residence hall on campus ever again.
- Rich to know that he pressured her into having sex and that she is negatively impacted by the interaction.

Rich (respondent) Wants

- To understand why Charlie broke up with him.
- To try to rekindle the relationship.
- To make sure Charlie knows that she broke his heart and she shouldn't do that to anyone else again.

During Informal Resolution

- Tensions are high between the parties. Charlie is yelling at Rich and both parties refuse to listen to one another.
 - What do you do?
 - What tools do you have at your disposal?

Advisors at Informal Resolution

- Charlie brought her mom as an advisor to the Informal Resolution meeting. Charlie's mom keeps asking questions about the procedures for resolution.
 - What do you do?

Resolution

Charlie and Rich have been able to discuss their reactions to the incident and reached the following agreement:

- Charlie will move to an available residence hall room somewhere on campus.
- A mutual, non-punitive no contact order will be in place between Charlie and Rich.
- Rich will participate in sexual assault education course (provided through CSSC).

Final Steps

- Email the signed copies of resolution to the parties and Title IX Coordinator to file.
 - Title IX Coordinator will share with CSSC if educational outcomes require attention

Questions?

